TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1903 1903 1904.

No. 343, 343

ANDREW J. AKERS, PLAINTIFF IN ERROR,

vs.

THE STATE OF WISCONSIN.

IN ERROR TO THE SUPREME COURT OF THE STATE OF WISCONSIN.

FILED [illegible], 1904.

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SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1902.

No. 297.

ANDREW J. AIKENS, PLAINTIFF IN ERROR,

vs.

THE STATE OF WISCONSIN.

IN ERROR TO THE SUPREME COURT OF THE STATE OF WISCONSIN.

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1 UNITED STATES OF AMERICA, *ss:*

The President of the United States of America to the honorable the judges of the supreme court of the State of Wisconsin, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said supreme court of the State of Wisconsin before you, or some of you, being the highest court of law or equity of the said State in which a decision could be had in the said suit between The State of Wisconsin plaintiff and Andrew J. Aikens defendant wherein was drawn in question the validity of a statute of, or an authority exercised under, said State, on the ground of their being repugnant to the Constitution, or laws of the United States, and the decision was in favor of such their validity; and wherein was drawn in question the construc-
2 tion of a clause of the Constitution, of the United States, and the decision was against the title, right, privilege, or exemption specially set up or claimed under such clause of the said Constitution, a manifest error hath happened to the great damage of the said Andrew J. Aikens as by his complaint appears. We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same in the said Supreme Court at Washington, within 30 days from the date hereof, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States, should be done.

Seal U. S. Circuit Court, Western Dist. of Wisconsin, Madison.

Witness the Honorable Melville W. Fuller, Chief Justice of the United States, the 11th day of March, in the year of our Lord one thousand nine hundred and two.

F. W. OAKLEY,
Clerk of the Circuit Court of the United States for the Western District of Wisconsin,
By F. D. REED, *Deputy.*

Allowed by

——— ———,
Associate Justice of the Supreme Court of the United States.

3 [Endorsed:] Filed Mar. 11, 1902. Clarence Kellogg, clerk of supreme court, Wis.

STATE OF WISCONSIN, *Supreme Court,* } ss:

The return to the within writ appears by the schedule hereto annexed.

The return of the justices of the supreme court of the State of Wisconsin.

CLARENCE KELLOGG, *Clerk.*

4 STATE OF WISCONSIN:

In Supreme Court.

STATE OF WISCONSIN, Defendant in Error,
vs.
ANDREW J. AIKENS, ALBERT HUEGIN, and MELVIN A. HOYT, Plaintiffs in Error.

To Hon. John B. Cassoday, chief justice of the supreme court of the State of Wisconsin:

The petition of Andrew J. Aikens, one of the plaintiffs in error above named, in his own right and behalf, respectfully represents that he is a citizen of the State of Wisconsin and of the United States, and a resident of the city of Milwaukee in said State and is there engaged, and has been for more than five years last past engaged, in the management and publication of a daily newspaper called The Evening Wisconsin. That during the period last aforesaid the above-named plaintiff in error, Melvin A. Hoyt, was engaged in the publication of another daily newspaper at the city of Milwaukee in said State called "The Milwaukee Daily News." And during the same period the above-named Albert Huegin was engaged in the publication of another daily newspaper at the city of Milwaukee in said State called "The Milwaukee Sentinel," both said Hoyt and said Huegin being at all times citizens of the State of Wisconsin and of the United States, residing at the city of Milwaukee
5 where each and all of said three papers had been and were then being published by said plaintiffs in error respectively.

That at said time and place there was also published in the city of Milwaukee by one Lucius W. Nieman and others a daily newspaper called "The Milwaukee Journal;" and that each of said papers, and each and every of the newspapers aforesaid was the property of a stock corporation, and each and every of the natural persons aforesaid was interested in the ownership of the respective papers and acting for it through an office or agency of said corporation owner, and that among the business of each of said newspapers was that of contracting for, receiving and publishing advertisements for hire.

That on the 7th day of October, A. D. 1901, in the municipal court of Milwaukee county, in the State of Wisconsin, that being a court of criminal jurisdiction for said county, an information against the above-named plaintiffs in error was filed by the district attorney

of the county of Milwaukee in said State in pursuance whereof warrants were issued and the said plaintiffs in error arrested and brought before said municipal court, and that thereafter and on November 11th, A. D. 1901, the plaintiffs in error duly appeared to plead to said information as required by law, and that your petitioner thereupon filed a plea in bar to the said information as shown in the record of this cause before said municipal court and before the supreme court of the State of Wisconsin, a true copy of which record containing said information and plea is herewith exhibited to your honor and — part hereof.

That thereafter and on November 20th, A. D. 1901, pursuant to adjournment duly had, said plea to said information was argued before said municipal court and then and there overruled by
6 said court and this petitioner, standing on his said plea, the said municipal court found your petitioner guilty as charged in the information and sentenced him to pay a fine of one hundred and fifty dollars, together with sixty-seven and $\frac{10}{100}$ dollars ($67.10) costs, and further adjudged that in default of such payment your petitioner be committed to the House of Correction for Milwaukee county until such fine and costs were paid, not, however, in all exceeding thirty days. Thereupon your petitioner tendered his exceptions to said finding and judgment of conviction, which exceptions were reduced to writing and allowed, and that a bill of exceptions was duly signed, sealed and certified in said cause, and that your petitioner, for the purpose of staying proceedings on said judgment of conviction, duly executed a bond to the State of Wisconsin with sureties conditioned as required by law, which said bond was duly approved by the judge of said municipal court who thereupon stayed all proceedings against your petitioner in said cause until the return of the remittitur from the supreme court of the State of Wisconsin to said municipal court. That thereafter a writ of error was duly issued by the supreme court of the State of Wisconsin in said cause in favor of your petitioner and on motion of your petitioner, and that upon said writ of error the record in said cause in said municipal court was duly certified and returned to the supreme court of the State of Wisconsin and came before said supreme court according to law; that thereafter and on February 1st, A. D. 1902, the State of Wisconsin appearing in said supreme court by its attorney general and this petitioner by his counsel, submitted said cause against your
7 petitioner to the said supreme court for decision without brief or argument on behalf of the State of Wisconsin and upon the joint brief in behalf of this petitioner and the other plaintiffs in error above named, and that the said supreme court of the State of Wisconsin on the 18th day of February, A. D. 1902, by its decision then and there duly given and rendered, affirmed the said judgment of conviction of the said municipal court in all respects and filed a written opinion therein, a copy of which is hereunto annexed and made a part of this petition.

And your petitioner further shows that in his said plea to said information and in the municipal court aforesaid and in the said su-

preme court aforesaid and at all times in the said cause he claimed immunity from prosecution or conviction under said information under and by virtue of the provisions of article XIV of the Constitution of the United States for that the acts charged in said information and admitted by his said plea were lawful and proper acts of trade competition and the right of your petitioner to do said acts could not be taken away from him by any statute of the State of Wisconsin or by any judicial decision of any court of that State. That in the municipal court and in said supreme court said contention so made of record and in said plea by your petitioner was overruled and the immunities, right and privilege so claimed by him denied.

And your petitioner further alleges that the said supreme court of the State of Wisconsin, as your petitioner is advised and submits, erred in its judgment in affirming the said judgment so removed
8 by said writ of error and thereby deprived your petitioner of his rights, privileges and immunities as a citizen of the State of Wisconsin and of the United States secured to him by the said article XIV of the Constitution of the United States. That in the proceedings and hearing of the said cause of your petitioner in the supreme court of the State of Wisconsin, there was necessarily drawn in question the validity of a certain statute of the State of Wisconsin as being repugnant to the Constitution of the United States, which statute was nevertheless adjudged by the said supreme court of the State of Wisconsin to be a valid statute; that the following is the statute of the State of Wisconsin, being section 4466*a* of the Wisconsin Statutes of 1898:

"Boycotting, strikes and lockouts. Injury to business; restraint of will.

"SECTION 4466*a*. Any two or more persons who shall combine, "associate, agree, mutually undertake or concert together for the "purpose of wilfully or maliciously injuring another in his reputa- "tion, trade, business or profession by any means whatever, or for "the purpose of maliciously compelling another to do or perform "any act against his will, or preventing or hindering another from "doing or performing any lawful act, shall be punished by impris- "onment in the county jail not more than one year or by fine not "exceeding five hundred dollars."

And your petitioner further avers that in the decision of said cause by said supreme court of the State of Wisconsin there was necessarily drawn in question the validity of said statute on the ground of its being repugnant to article XIV of the Constitution of the United States and the decision of said supreme court was in favor of the validity of said statute, and that there was by said information and plea drawn in question the construction of said article XIV of the Constitution of the United States, and that the decision of said supreme court of the State of Wisconsin was against the title,
9 right, privilege and exemption specially set up in said plea in bar and claimed under article XIV of the said Constitu-

tion of the United States whereby a manifest error had happened to the great damage of the said Andrew J. Aikens and resulting in his conviction and sentence to fine and imprisonment as aforesaid.

And your petitioner further offers such security on granting a writ of error hereinafter prayed as your honor may require to the effect that he will prosecute his writ of error to effect and if he fail to make good his plea shall answer all damages and costs, and prays that the said security shall be taken as a supersedeas and stay of execution upon the judgment returned in said cause.

Wherefore your petitioner prays your honor to grant and allow to him a writ of error from the judgment of the said supreme court of the State of Wisconsin to be issued by the Supreme Court of the United States to the said supreme court of the State of Wisconsin to the end that the judgment of said supreme court of the State of Wisconsin may be reviewed by the Supreme Court of the United States and the rights, privileges and immunities secured by the said article XIV of the Constitution of the United States and the liberty, property and due process of law thereby secured to your petitioner may be adjudged and awarded to him; and for such further or other order as may be proper.

ANDREW J. AIKENS, *Petitioner*,
Per W. H. TIMLIN.

10 UNITED STATES OF AMERICA, } ss:
State of Wisconsin, }

Desiring to give petitioner, Andrew J. Aikens, an opportunity to test in the Supreme Court of the United States the question presented in the foregoing petition,

It is ordered, that a writ of error be allowed to said court and that the same be made a supersedeas, the bond in the penal sum of one thousand dollars herewith presented being approved.

In testimony witness my hand this 11th day of March, A. D. 1902.

JOHN B. CASSODAY,
Chief Justice of the Supreme Court of the State of Wisconsin.

11 Be it remembered, that at a term of the supreme court of the State of Wisconsin, begun and held at the capitol, in Madison, the seat of government of said State, on the first Tuesday, to wit, on the 7th day of January, A. D. 1902, on the fourteenth day of the term, to wit: on the 18th day of February, A. D. 1902. Present, John B. Cassoday, chief justice, John B. Winslow, R. D. Marshall, Charles V. Bardeen and Joshua E. Dodge, justices of said court, the following proceedings were had, *inter alia*, to wit:

ANDREW J. AIKENS, Plaintiff in Error,
vs.
STATE OF WISCONSIN, Defendant in Error. } Error to Municipal Court, Milwaukee County, State of Wisconsin.

This cause came on to be heard on the return to the writ of error issued herein, and was argued by counsel. On consideration

whereof, it is now here ordered and adjudged by this court, that the judgment of the municipal court of Milwaukee county, in this cause, be and the same is hereby affirmed, with costs against the said plaintiff in error taxed at the sum of —— dollars.

STATE OF WISCONSIN, } ss:
Supreme Court, }

I, Clarence Kellogg, clerk of the supreme court of the State of Wisconsin, do hereby certify that I have compared the above and foregoing with the original order and judgment of the court in the above-entitled cause, and that it is a correct transcript therefrom, and of the whole thereof.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, at Madison, this twenty-sixth day of February, A. D. 1902.

[Seal Supreme Court of Wisconsin.]

CLARENCE KELLOGG,
Clerk of the Supreme Court of the State of Wisconsin.

[Endorsed:] State of Wisconsin. Supreme court. Andrew J. Aikens, plaintiff in error, against State of Wisconsin, defendant in error. Certified copy of judgment.

12 STATE OF WISCONSIN:

In Supreme Court.

Nos. 7, 8, & 9, State.

ANDREW J. AIKENS, Plaintiff in Error,
vs.
STATE OF WISCONSIN, Defendant in Error.

ALBERT HUEGIN, Plaintiff in Error,
vs.
STATE OF WISCONSIN, Defendant in Error.

MELVIN A. HOYT, Plaintiff in Error,
vs.
STATE OF WISCONSIN, Defendant in Error.

Each of the plaintiffs in error sued out his proper writ to review a judgment of the municipal court of Milwaukee county, adjudging him guilty of having committed an offense by violating section 4466*a* R. S. 1898, as charged in the information. The sufficiency of the complaint upon which the plaintiffs in error were originally charged and brought before a magistrate for their preliminary examination, and the constitutionality of sec. 4466*a id.*, were considered by this court and sustained on a review of *habeas corpus* proceedings on writs of error, the causes being reported in 110 Wis. p. 189. On such review there was no question but that the complaint

fully satisfied the statute. It was challenged, and the statute as well, on constitutional grounds. After such decision the causes were remanded for further proceedings according to law, whereupon an information was duly filed, charging the accused persons in all respects substantially as in the complaint, which had been passed upon as aforesaid.

Upon being duly arraigned upon such information, Andrew J. Aikens and Albert Huegin separately filed pleas admitting the
13 charge made against them, but insisting that the same did not constitute a criminal offense, assigning in support thereof the same reasons as those formerly urged and passed upon by this court as aforesaid. Melvin A. Hoyt, being duly arraigned upon the information, took the same course as his associates by demurring to such information. The special pleas and the demurrer to the information were overruled. The plaintiffs in error thereupon, each in his own behalf, refused to plead over to the information, admitted all the allegations thereof, but insisted that the acts charged do not constitute a punishable offense. Thereupon the plaintiffs in error were severally adjudged guilty as charged in the information and punishment therefor was duly imposed by the judgment of the court. Thereupon these writs of error were sued out to review such judgments.

MARSHALL, *J.*:

From the foregoing statement it appears that all the questions raised in the court below by plaintiffs in error were considered and decided against them in State *v.* Aikens, State *v.* Huegin, and State *v.* Hoyt, 110 Wis. 189. The trial court followed that decision as it was bound to do. As we understand the matter the information contains the same charge as the one set forth in the complaint, the plaintiffs in error in effect pleaded guilty thereto, admitting the doing of all the acts charged against them, and they were thereupon duly adjudged guilty and sentenced. In that view the judgments must be affirmed, as all questions in regard to the matters are *res adjudicata*, as before indicated.

By the COURT: The judgment as to each of the plaintiffs in error is affirmed.

14 [Endorsed:] State of Wisconsin. In supreme court. State of Wisconsin, defendant in error, *vs.* Andrew J. Aikens, Albert Huegin and Melvin A. Hoyt, plaintiffs in error. Petition of Andrew J. Aikens for and order allowing writ of error to Supreme Court of the United States. (Original.) Filed Mar. 11 1902 Clarence Kellogg, clerk of supreme court, Wis. W. H. Timlin, attorney for petitioner, Andrew J. Aikens.

15 UNITED STATES OF AMERICA, ss:

To the State of Wisconsin, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States at Washington, within thirty

days from the date hereof, pursuant to a writ of error filed in the clerk's office of the supreme court of the State of Wisconsin, wherein Andrew J. Aikens is plaintiff in error, and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error as in said writ of error mentioned should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Hon. John B. Cassoday, chief justice of the supreme court of the State of Wisconsin, this 11th day of March, in the year of our Lord one thousand nine hundred and two.

JOHN B. CASSODAY,
Chief Justice of the Supreme Court of the State of Wisconsin.

[Endorsed:] Filed. Mar. 11 1902 Clarence Kellogg, clerk of supreme court, Wis.

16 & 17 Know all men by these presents, that we, Andrew J. Aikens, as principal, and W. E Cramer and John F. Cramer, as sureties, are held and firmly bound unto the State of Wisconsin, in the full and just sum of one thousand dollars to be paid to the said State of Wisconsin, its certain attorney or assigns, to the payment of which well and truly to be made we bind ourselves, our heirs, executors and administrators jointly and severally, by these presents.

Sealed with our seals and dated this 28th day of February, in the year of our Lord one thousand nine hundred and two.

Whereas lately at a term of the supreme court of the State of Wisconsin, and on February 18th, A. D. 1902, in a suit depending in said court between The State of Wisconsin, defendant in error, and Andrew J. Aikens, plaintiff in error, a judgment was rendered against the said Andrew J. Aikens and the said Andrew J. Aikens obtained a writ of error and filed a copy thereof in the clerk's office of the said court to reverse the judgment in the aforesaid suit and a citation directed to the said State of Wisconsin citing and admonishing it to be and appear at a Supreme Court of the United States at Washington within thirty days from the date thereof, now the condition of the above obligation is such, that if the said Andrew J. Aikens shall prosecute said writ of error to effect and answer all damages and costs if he fail to make good his plea, then the above obligation to be void, else to remain in full force and virtue.

ANDREW J. AIKENS,
Per W. H. TIMLIN. [SEAL.]
W. E. CRAMER. [SEAL.]
JOHN F. CRAMER. [SEAL.]

Signed, sealed and delivered in presence of
JOHN PALLANGS.
W. A. BOOTH.

Approved by
JOHN B. CASSODAY,
Chief Justice.

[Endorsed:] State of Wisconsin. In supreme court. State of Wisconsin, defendant in error, *vs.* Andrew J. Aikens, Albert Huegin, and Melvin A. Hoyt, plaintiffs in error. Citation to State of Wisconsin and bond of Andrew J. Aikens. Due personal service admitted this 11th day of March, 1902. E. R. Hicks, attorney general. W. H. Timlin, attorney for A. J. Aikens. Filed March 11, 1902. Clarence Kellogg, clerk of supreme court, Wis.

18 STATE OF WISCONSIN:

In Supreme Court.

STATE OF WISCONSIN, Defendant in Error,
vs.
ANDREW J. AIKENS, Plaintiff in Error.

Comes now the said Andrew J. Aikens plaintiff in error defendant in the above-entitled cause, and files the following assignments of error upon which he will rely:

(1.) That the court erred in sustaining the demurrer interposed by The State of Wisconsin plaintiff aforesaid and defendant in error in this court to the plea filed in said cause by the defendant Andrew J. Aikens plaintiff in error in this court, and by holding and deciding that the facts stated in said plea filed were not sufficient to constitute a defense to the matters and things charged in the information herein.

(2.) That the said court erred in determining that the said plea filed by the said defendant Andrew J. Aikens herein plaintiff in error was not a sufficient justification and defense herein under section 14 of the Constitution of the United States.

(3.) That the said court erred in sustaining the demurrer interposed by The State of Wisconsin plaintiff in this cause and defendant in error in this court to the plea of the defendant Andrew J. Aikens defendant in said cause plaintiff in error herein, and in not determining upon said plea that the information herein was

19 insufficient in law.

(4.) That the said court erred in adjudging upon the record before it, viz: the information of the said State and the plea thereunto of the said Aikens, said defendant Andrew J. Aikens plaintiff in error herein, guilty and sentencing him to fine and imprisonment and affirming the judgment of the trial court in that regard for that it appears from the record herein that such proceedings, sentence and conviction were in violation of the rights of the said defendant Andrew J. Aikens under section 14 of the amendments to the Constitution of the United States, in that it deprived him the said Andrew J. Aikens of the use of his property without due process of law and in that it deprived him of the liberty to make such contracts not inimical to the public health, welfare or morals as he had a right to make under said fourteenth amendment to the said Constitution of the United States, and in that it deprived him the said Andrew J. Aikens of his liberty and abridged

the privileges and immunities of said Andrew J. Aikens as a citizen of the United States and denied to him the equal protection of the law.

W. H. TIMLIN,
Attorney for Plaintiff in Error, Andrew J. Aikens.

20 [Endorsed:] State of Wisconsin. In supreme court. State of Wisconsin, defendant in error, *vs.* Andrew J. Aikens, plaintiff in error. Assignments of error. (Original.) Filed. Mar. 11, 1902 Clarence Kellogg, clerk of supreme court, Wis. W. H. Timlin, attorney for A. J. Aikens.

21 Pleas before the supreme court of the State of Wisconsin at a term thereof begun and held at the capitol, in Madison, the seat of government of said State, on the first Tuesday, to wit, the seventh day, of January, A. D. 1902.

Present: John B. Cassoday, chief justice, John B. Winslow, Roujet D. Marshall, Charles V. Bardeen, and Joshua Eric Dodge, justices. Clarence Kellogg, clerk.

Be it remembered that heretofore, to wit: on the fifth day of December, in the year of our Lord one thousand nine hundred and one, came into the office of the clerk of the supreme court of the State of Wisconsin, Andrew J. Aikens, and filed in said court his certain bond on writ of error; and on the sixth day of December, in the year of our Lord one thousand nine hundred and one, came into the office of the clerk of the supreme court of the State of Wisconsin, the said Andrew J. Aikens, and filed in said court his certain writ of error, according to the statute in such case made and provided, and also the return to such writ of error, of the clerk of the municipal court of Milwaukee county, in said State, in the words and figures following, that is to say:

22 Know all men by these presents, that Andrew J. Aikens as principal, and William E. Cramer and John F. Cramer, as sureties, all of the city and county of Milwaukee and State of Wisconsin, are held and firmly bound to the State of Wisconsin in the sum of two hundred and fifty dollars ($250.00), lawful money of the United States, to be paid to the said State of Wisconsin, for which payment well and truly to be made we bind ourselves, our heirs, executors and administrators jointly and severally firmly by these presents.

Sealed with our seals, and dated this 27th day of November, 1901.

Whereas, the above-bounden Andrew J. Aikens has sued a writ of error out of the supreme court of the State of Wisconsin directed to the judge of the municipal court for Milwaukee county, commanding that a transcript of the record in a certain criminal action upon an information for an alleged conspiracy to injure presented by the district attorney in behalf of said State of Wisconsin against said defendant and accused Andrew J. Aikens in said municipal court, wherein judgment was rendered against said Andrew J. Aikens, on November 20th, 1901, finding said accused defendant guilty, as

charged in said information, and sentencing him to pay a fine of $150.00, together with $67.10 costs, and in default of such payment to be committed to the House of Correction of Milwaukee county until such fine and costs are paid, not, however, in all exceeding thirty days, be sent to said supreme court.

Now, the condition hereof is such that if the said Andrew J. Aikens shall well and truly pay all costs and damages which may be awarded against him on said writ of error, then this obligation shall be void, otherwise of force.

ANDREW J. AIKENS. [SEAL.]
JOHN F. CRAMER. [SEAL.]
WM. E. CRAMER. [SEAL.]

Sealed and delivered in presence of—
JOHN G. GREGORY.
JOHN PALLANGS.

23 STATE OF WISCONSIN, } ss:
Milwaukee County, }

Wm. E. Cramer and John F. Cramer, being duly sworn, each for himself says that he is one of the subscribers to the foregoing bond; that he is a resident of the State of Wisconsin and is worth the sum of five hundred dollars ($500.00) over and above all his debts and liabilities, in property within the State of Wisconsin not by law exempt from execution.

W. E. CRAMER.
JOHN F. CRAMER.

Subscribed and sworn to before me, this 27th day of November, 1901.

J. E. BURS,
[SEAL.] *Notary Public, Milwaukee County, Wisconsin.*

My commission expires May 17, 1903.

I approve the foregoing bond both as to form and sufficiency of sureties this 5th day of December, 1901.

CLARENCE KELLOGG,
Clerk Sup. Court, Wis.

(Endorsements:) State of Wisconsin. In supreme court. State of Wisconsin, defendant in error, *vs.* Andrew J. Aikens, plaintiff in error. Bond of A. J. Aikens. Original. Filed Dec. 5, 1901. Clarence Kellogg, clerk of supreme court, Wis. W. H. Timlin, att'y for A. J. Aikens.

24 STATE OF WISCONSIN, } ss:
Supreme Court, }

The State of Wisconsin to the judge of the municipal court of the county of Milwaukee, in said State, Greeting:

Because in the record and proceedings, and also in the rendition of judgment, in a suit which was duly tried in the municipal court

of Milwaukee county aforesaid, before you, between The State of Wisconsin, plaintiff, and Andrew J. Aikens, Albert Huegin and Melvin A. Hoyt, defendants, in a criminal prosecution for misdemeanor, manifest error hath intervened to the great damage of the said Andrew J. Aikens, as by his complaint we are informed.

And we being willing that the error, if any there be, should in due manner be corrected and full and speedy justice done to the parties aforesaid, do command you, that if judgment be thereupon given, then you send to the judges of the supreme court of the State of Wisconsin, distinctly and openly, under your seal, with all convenient dispatch, a transcript of the record and proceedings of the suit aforesaid, with all things concerning the same, and this writ, so that they may have the same at the next term of our said supreme court, to be held at Madison, in the State aforesaid, on the Tuesday next preceding the second Wednesday in January anno Domini one thousand nine hundred and two that the record and proceedings aforesaid, being inspected, we may cause to be further done, for correcting that error, what of right, and according to law and the rules of our said court, ought to be done.

Witness the Hon. John B. Cassoday, chief justice of the [SEAL.] supreme court of the State of Wisconsin, at Madison, this twenty-sixth day of November, A. D. 1901.

Attest: CLARENCE KELLOGG, *Clerk.*

[Endorsed:] State of Wisconsin, supreme court. The State of Wisconsin, plaintiff, against Andrew J. Aikens, Albert Huegin and Melvin A. Hoyt, defendants. Writ of error. Filed Nov. 26, 1901. Frank E. Woller, clerk of municipal court. Filed Dec. 6, 1901. Clarence Kellogg, clerk of supreme court, Wis.

25 THE STATE OF WISCONSIN *vs.* ALBERT HUEGIN, ANDREW J. AIKENS, MELVIN A. HOYT. } No. 4192.

W. H. Bennett, district attorney.
W. H. Timlin, attorney for A. J. Aikens.
Van Dyke, Carter & Van Dyke, attorneys for A. Huegin.
N. S. Murphy, attorney for M. A. Hoyt.
Hon. A. C. Brazee, presiding judge.

July 5, 1900.—The original complaint, warrant and all other papers in this case from police court, Milwaukee, received and filed.

July 18, 1900.—All the original papers in this cause sent to the circuit court of Milwaukee county, on a petition of the defendants' counsel for a writ of *habeas corpus*.

July 2, 1901.—All the original papers in this cause returned to the municipal court from the clerk of the circuit court of Milwaukee county.

October 21, 1901.—Came the district attorney for the county of Milwaukee, and in open court filed an information against the above-named defendants, endorsed: State of Wisconsin, municipal court, Milwaukee county, *ss.* I hereby certify that on the 21st day

of October, 1901, at the city of Milwaukee, in said county, I arrested the within-named Albert Huegin, Andrew J. Aikens and Melvin A. Hoyt and produced their bodies in court, Theo. Zillmer, sheriff, per Fred Stark, deputy sheriff, fees, etc. Same day defendants severally present in court, whereupon the said defendants were arraigned in open court. Reading of the information waived by the defendants severally. And the said defendants, Andrew J. Aikens and Albert Huegin, each for himself filing a special plea in bar; and the said defendant Melvin A. Hoyt, entering and filing a demurrer to the information.

26 Municipal Court, Milwaukee County.

THE STATE OF WISCONSIN
vs.
ALBERT HUEGIN ET AL.

The judge of the above-mentioned court, having been at the time of the instituting of the prosecution of the above-entitled cause district attorney of Milwaukee county, and having been consulted in regard to the same, and having been attorney for the prosecution in said cause, and the judge of this court having for said reasons called upon the Hon. George W. Burnell, circuit judge of the third judicial circuit, to attend and hold court during the trial of said cause, and the said circuit judge, the Hon. George W. Burnell, having consented to attend and hold court during the trial of this cause, and having set Wednesday, November 20, 1901, at ten o'clock a. m., as the date and time when he would so attend and hold court for the trial of said cause, it is hereby

Ordered, that this cause be, and the same hereby is, set for trial in this court, before the said circuit judge, the Hon. Geo. W. Burnell, on the 20th day of November, 1901, at ten o'clock a. m. of said day, and it is hereby further

Ordered, that the clerk of this court shall, in writing, notify the parties in this cause and their respective attorneys of the time and place set for the hearing of said cause, and of the judge who will preside therein.

By the court.

A. C. BRAZEE, *Judge.*

Milwaukee, November 11, 1901.

November 20, 1901.—Defendants with their attorneys all present in open court. Hon. Geo. W. Burnell, presiding judge. Motions of pleas before made argued by counsel and submitted, court ordered that the motion to strike out the plea of the defendants Huegin and Aikens be considered a demurrer, upon application of the district attorney and the defendants' counsel, the defendants' counsel consenting. Court further ordered that the demurrer of the State as to the defendants Huegin and Aikens be sustained, the defendants declining to plead over and stand upon their plea. The demurrer of the defendant Hoyt overruled

by the court, and the defendant declines to plead over and stands upon his plea. Recess taken until 2 o'clock p. m. Two o'clock p. m. defendants with their attorneys all present in open court. Cause submitted. Whereupon court called upon the de-
27 fendants, each of them, to give any reason they might have, why sentence should not be pronounced upon them, and they giving no reason, court did upon the findings and pleadings in this cause, find the said defendants severally guilty as charged in the information aforesaid and did adjudge and determine that the defendants Albert Huegin, Andrew J. Aikens and Melvin A. Hoyt, severally, and each of you, pay a fine of one hundred and fifty dollars together with sixty-seven and $\frac{1}{100}$ dollars, costs, each, or in default of the payment of said fine and costs to be committed to the House of Correction of Milwaukee county at hard labor until said fine and costs are paid, but such imprisonment shall not exceed in all thirty days each. And now comes the defendants severally, by their attorneys and files exceptions to the judgment of the court. Exceptions allowed by the court.

And now comes the defendants, severally and each of them, by their attorney, and ask for a stay of proceedings in this cause pending the defendants' appeal to the supreme court. Stay granted by the court, and pending the stay of proceedings court ordered that the defendants recognize in the sum of five hundred dollars each. Bail given.

Fines,	$450.00
Costs,	201.31
Total,	$651.31

Nov. 26, 1901.—Writ of error as to all of the defendants in above cause from the Hon. John B. Cassoday, chief justice of the State of Wisconsin, filed. Bill of exceptions as to all of the above-named defendants filed. Notice of filing writ of error from defendants' attorneys filed.

28 STATE OF WISCONSIN, } ss:
Municipal Court, Milwaukee County, }

I, Frank E. Woller, clerk of the municipal court, do hereby certify that I have compared the foregoing copy with the original record entered in the action therein entitled, that it is a correct transcript therefrom and of the whole thereof, as the same remains of record in my office.

In testimony whereof, I have hereunto set my hand and [SEAL.] affixed the seal of said court, this fourth day of December, A. D. 1901.

FRANK E. WOLLER,
Clerk of the Municipal Court.

29 *Capias.*

STATE OF WISCONSIN, } ss:
Municipal Court for the City and County of Milwaukee, }

The State of Wisconsin to the sheriff of the county of Milwaukee, Greeting:

We command you, that you take Albert Huegin And. J. Aikens and Melvin A. Hoyt and them safely keep, so that you may have their bodies before the municipal court of the county of [SEAL.] Milwaukee aforesaid, at the court-room in Milwaukee, forthwith then and there to answer unto an information pending against them in said court for conspiracy to injure which shall then and there be made to appear, and of this writ make due return.

Witness, the Hon. A. C. Brazee, judge of the municipal court of said county and city at Milwaukee, the 21st day of October in the year of our Lord one thousand nine hundred and one.

FRANK E. WOLLER,
Clerk of the Municipal Court,
By THOS. V. DALLY, *Deputy.*

——— ———, *Attorneys.*

(Endorsements.)

STATE OF WISCONSIN, } ss:
Municipal Court, Milwaukee County, }

I hereby certify that on the twenty-first (21st) day of October, 1901, at the city of Milwaukee, in said county, I arrested the within-named Albert Huegin, And. J. Aikens and Melvin A. Hoyt, and produced their bodies in court.

Fees.

Service	$2.00
Travel	.20
Attendance	4.50
Return	.25
Total	$6.95

THEODORE ZILLMER, *Sheriff,*
Per FRED STARK, *Dep. Sheriff.*

No. 4192. October term, A. D. 1901. Municipal court, Milwaukee county. State of Wisconsin *vs.* Albert Huegin *et al.* Capias. Docket No. 2289. Theo. Zillmer, sheriff. Frank E. Woller, clerk of municipal court. Filed Oct. 21, 1901.

30 Municipal Court, Milwaukee County.

THE STATE OF WISCONSIN, Plaintiff,
vs.
ANDREW J. AIKENS, ALBERT HUEGIN, and MELVIN A. HOYT, Defendants.

I, W. H. Bennett, district attorney for Milwaukee county, hereby inform the court that on the 5th day of April, in the year one thousand nine hundred, at the city of Milwaukee, and within said county of Milwaukee, Wisconsin, Andrew J. Aikens, Albert Huegin and Melvin A. Hoyt did, then and there, unlawfully conspire, combine, confederate, associate, agree, mutually undertake and concert together for the purpose and with the intent then and there of wilfully and maliciously injuring the Journal Company, a corporation duly organized and existing under and by virtue of the laws of the State of Wisconsin, in its trade and business and for the purpose and with the intent then and there of wilfully and maliciously injuring Lucius W. Nieman, Lloyd T. Boyd and John W. Schaum, and each of them, in their trade, business and occupation; that the said, The Journal Company, at all of said times was, ever since has been and now is a corporation organized and existing under and by virtue of the laws of the State of Wisconsin as aforesaid, and at all of said times was and now is the owner and publisher of a daily newspaper and advertising medium known as the Milwaukee Journal, published at the said city of Milwaukee, which said newspaper at all of the times herein referred to had, and now has, a large circulation as a newspaper and advertising medium in the city of Milwaukee and throughout the State of Wisconsin and elsewhere; that it was at all of said times, and now is, the business and trade of said The Journal Company to publish said newspaper and to sell and furnish the same to its patrons and subscribers and to solicit, receive, print and publish in said newspaper for hire advertisements for merchants and other persons as is customary with such newspapers, and that at all of said times and especially at the time of the said combination and conspiracy, and subse-
31 quently thereto, the said The Journal Company had a large number of advertisers or patrons who advertised in said newspaper, the Milwaukee Journal, and that a large proportion of the revenue of said The Journal Company was and is derived from such advertisements; that the said Lucius W. Nieman, Lloyd T. Boyd and John W. Schaum were at all of said times and now are, stockholders in said The Journal Company, and financially interested in the business and success of said The Journal Company; that the business and trade of the said Lucius W. Nieman is, among other things, that of editor of said The Milwaukee Journal, and the business and trade of said Lloyd T. Boyd is that of business manager of said The Journal Company and of said The Milwaukee Journal; and that at all of said times the business of said John W. Schaum was and is that of treasurer of said The Journal Company.

That the prices for advertisements and the advertising rates which

newspapers such as said The Milwaukee Journal and the other newspapers herein mentioned are entitled to charge, and which advertisers and patrons are willing to pay, depend and are based largely upon the circulation of such papers and the number of their readers; that early in the year A. D. 1900 said The Journal Company in good faith, established a new rate for advertising in said The Milwaukee Journal, based, among other things, upon its increased circulation, and notified the patrons of and advertisers in the said The Milwaukee Journal thereof, which said rate for advertising was an increase of about 25 per cent. above that which was charged by said The Journal Company for like advertising in the year 1899.

That at all of said times the said Andrew J. Aikens was and now is the business manager of the Evening Wisconsin, a daily newspaper published in the city of Milwaukee and having also an extensive circulation and devoted to the purposes of a general newspaper and to advertising for hire, like unto the said The Milwaukee Journal; that at all of said times said Albert Huegin was the business manager of the Milwaukee Sentinel, a daily newspaper published at the city of Milwaukee having an extensive circulation and devoted to the purposes of a general newspaper and to advertise for hire, like unto the newspapers aforementioned; that at all of said times said Melvin A. Hoyt was and now is the editor of the Milwaukee Daily News, and the president of the News Publishing Company, the corporation owning said The Milwaukee Daily News, a daily newspaper published at the city of Milwaukee and de-
32 voted to the purposes of a general newspaper and to advertising for hire, like unto the other of said newspapers.

That on or about the 5th day of April, A. D. 1900, the exact date whereof being unknown to affiants, said Andrew J. Aikens, Albert Huegin and Melvin A. Hoyt, with others unknown to affiant, in furtherance and in pursuance of said unlawful conspiracy, combination, confederation, association, agreement and mutual understanding, for the purpose and with the intent then and there of wilfully, maliciously and unlawfully injuring said The Journal Company in its trade and business, and also said Lucius W. Nieman, Lloyd T. Boyd and John W. Schaum, and each of them, in their trade and business and to that end and with the purpose and intent aforesaid, did confederate, agree and mutually undertake that if any merchant or other person or corporation advertising or proposing to advertise in said The Milwaukee Journal, should pay or agree to pay to said The Journal Company the increased rate for advertising established or fixed by it as aforesaid, that then and in that case any such person or corporation should not be permitted to advertise in any of said other three newspapers, to wit: said The Milwaukee Sentinel, The Evening Wisconsin and The Milwaukee Daily News, unless such merchant, other person or corporation should advertise in each of said three papers and pay to each of them or to the respective owners or proprietors of them a corresponding increase over the rates respectively theretofore charged by such other three newspapers respectively, to wit: about 25 per cent. in excess of what said last-mentioned three

papers respectively were then charging and had theretofore charged for advertising; but that in case any merchant, other person or corporation should refuse to pay to said The Journal Company the said increased rate established by it as aforesaid for advertising in said The Milwaukee Journal, then and in that case such merchant or other person or corporation so refusing should be at liberty to advertise in any or all of the other of said three newspapers at the rates which had theretofore been charged by said other three newspapers respectively; that a large number of merchants in the city of Milwaukee and other persons were at the time of said combination and agreement, and subsequently thereto, advertising in all of said newspapers, to wit: the Milwaukee Journal, the Evening Wisconsin, the Milwaukee Sentinel and the Milwaukee Daily News, and that the right or privilege to advertise in two or more of said papers was
33 and is considered and regarded by a large number of such merchants and other persons as a valuable right and privilege and one much to be desired; that all or the greater part of the patrons of and persons advertising in said The Milwaukee Journal were, pursuant to said combination and conspiracy on the part of said Aikens, Huegin and Hoyt, and in furtherance thereof, notified by them of the said agreement, conspiracy and combination between said Andrew J. Aikens, Albert Huegin and Melvin A. Hoyt; that many of the patrons and advertisers in said The Milwaukee Journal were induced thereby to withdraw their advertisements therefrom, greatly to the injury of the business and trade of said The Journal Company and of said Lucius W. Nieman, Lloyd T. Boyd and John W. Schaum; that pursuant to said combination, agreement, confederation and conspiracy, and in furtherance thereof, said Andrew J. Aikens, Albert Huegin and Melvin A. Hoyt did refuse to allow the advertisements of divers merchants and other persons to be inserted in either the Milwaukee Sentinel, the Evening Wisconsin or the Milwaukee Daily News aforesaid, and did prevent the advertisements of divers merchants and other persons from appearing in all or any of said last three mentioned newspapers because such merchant or other persons so prevented had paid or agreed to pay to said The Journal Company the said increased rate for advertising established by it as aforesaid; and that by reason of said combination, conspiracy and agreement many merchants in the city of Milwaukee and elsewhere, and other persons, were prevented from advertising in said The Milwaukee Journal, greatly to the injury of the business and trade of said The Journal Company and of said Lucius W. Nieman, Lloyd T. Boyd and John W. Schaum, and of each of them, contrary to the statutes in such case made and provided, and against the peace and dignity of the State of Wisconsin.

Dated at Milwaukee, in said county, this seventh day of October, in the year one thousand nine hundred and one.

W. H. BENNETT,
District Attorney, Milwaukee County, Wis.

(Endorsements.)

Prisoners arraigned in open court this 21st day of October, 1901, and the said defendants Andrew J. Aikens and Albert Huegin each for himself filing a special plea in bar, and the said defendant Melvin A. Hoyt entering and filing a demurrer to the information.

A. C. BRAZEE,
Municipal Judge.

Municipal court, Milwaukee county. State of Wisconsin against Andrew J. Aikens *et al.* Information for conspiracy. W. H. Bennett, district attorney. Filed Oct. 21, 1901. Frank E. Woller, clerk of municipal court.

34 Municipal Court, Milwaukee County.

STATE OF WISCONSIN, Plaintiff,
vs.
ALBERT HUEGIN, ANDREW J. AIKENS, and MELVIN A. HOYT, Defendants.

The said Andrew J. Aikens in his own proper person cometh into court and having heard the information read, pleads thereto and says:

That he avers, confesses and admits that on the 5th day of April in the year A. D. one thousand nine hundred the Journal Company in said information named at all of said times was and ever since has been, and now is, a corporation organized and existing under and by virtue of the laws of the State of Wisconsin, and at all of said times was and now is the owner and publisher of a daily newspaper and advertising medium known as the Milwaukee Journal published at the city of Milwaukee, which said newspaper at all of the times therein referred to had and now has a large circulation as a newspaper and advertising medium in the city of Milwaukee and throughout the State of Wisconsin and elsewhere, and that it was at all of said times and now is the business and trade of said The Journal Company to publish said newspaper and to sell and furnish the same to its patrons and subscribers and to solicit and receive, print and publish in said newspaper for hire advertisements for merchants and other persons, as is customary with such newspapers, and that at all of said times and especially on the fifth day of April, A. D. one thousand nine hundred and subsequently thereto, the said The Journal Company, had a large number of advertisers or patrons who advertised in said newspaper, the Milwaukee Journal, and that a large proportion of the revenue of said The Journal Company, was and is derived from such advertisements; and that the said Lucius W. Nieman, Lloyd T. Boyd and John W. Schaum in said information named, were at all of said times and now are stockholders in said The Journal Company and financially interested in the business and success of said The Journal Com-

35 pany; that the business and trade of the said Lucius W. Nieman is, among other things that of editor of said The Milwaukee

Journal, and the business and trade of said Lloyd T. Boyd is that of business manager of said The Journal Company, and said The Milwaukee Journal, and that at all of said times the business of said John W. Schaum was and is that of treasurer of said The Journal Company.

And further, that the prices for advertisements and the advertising rates which newspapers such as said The Milwaukee Journal and the other newspapers in said information mentioned are entitled to charge, and which advertisers and patrons are willing to pay, had been and are based largely upon the circulation of such papers and the number of their readers.

And further, that early in the year A. D. one thousand nine hundred said The Journal Company, in good faith established a new rate for advertising in said The Milwaukee Journal based among other things upon its increased circulation, and notified the patrons of and advertisers in the said The Milwaukee Journal thereof, which said rate for advertising was an increase of about twenty-five per centum above that which was charged by said The Journal Company for like advertising in the year A. D. one thousand eight hundred and ninety-nine.

And further, that at all of said times the said Andrew J. Aikens was and now is the business manager of the Evening Wisconsin, a daily newspaper published in the city of Milwaukee and having also an extensive circulation and devoted to the purposes of a general newspaper and to advertising for hire like unto the said The Milwaukee Journal; that at all of said times said Albert Huegin was the business manager of the Milwaukee Sentinel, a daily newspaper published at the city of Milwaukee, having an extensive circulation and devoted to the purposes of a general newspaper and to advertising for hire like unto the other newspapers aforementioned; and that at all of said times said Melvin A. Hoyt was and now is the editor of the Milwaukee Daily News and the president of the News Publishing Company, the corporation owning said The Milwaukee Daily News, a daily newspaper published at the city of Milwaukee and devoted to the purposes of a general newspaper and to advertising for hire like unto the other said newspapers.

And further, that on or about the fifth day of April, A. D.
36 one thousand nine hundred, the said Andrew J. Aikens, Albert Huegin and Melvin A. Hoyt, in furtherance and pursuance of a combination, confederation, association, agreement and mutual understanding for the purpose then and there and with the intent of injuring the said The Journal Company in its trade and business and also the said Lucius W. Nieman, Lloyd T. Boyd and John W. Schaum, and each of them, in their trade and business, and to that end and with such purpose and intent did confederate, agree and mutually undertake that if any merchant or other person or corporation advertising or proposing to advertise in said The Milwaukee Journal should pay or agree to pay to said The Journal Company the increased rate for advertising established or fixed by it as aforesaid, that then and in that case any such person or corporation should not be permitted to advertise in any of said other

three newspapers, to wit: said The Milwaukee Sentinel, The Evening Wisconsin and The Milwaukee Daily News, unless such merchant, other person or corporation should advertise in each of said three papers and pay to each of them, or to the respective owners or proprietors of them, a corresponding increase over the rates respectively theretofore charged by such other three newspapers respectively, to wit: about twenty-five per centum in excess of what said last-mentioned three papers respectively were then charging and had theretofore charged for advertising, but that in case any merchant, other person or corporation should refuse to pay to the said The Journal Company the said increased rate established by it as aforesaid for advertising in said The Milwaukee Journal, then and in that case such merchant or other person or corporation so refusing should be at liberty to advertise in any or all of the other of said three newspapers at the rates which had theretofore been charged by said other three newspapers respectively.

And further, that a large number of merchants in the city of Milwaukee, and other persons, were at the time of said combination and agreement and subsequently thereto advertising in all of said newspapers, to wit: the Milwaukee Journal, the Evening Wisconsin, the Milwaukee Sentinel and the Milwaukee Daily News, and that the right or privilege to advertise in two or more of said papers was and is considered by a large number of such merchants and other persons as a valuable right and privilege and one much to be desired.

And further, that all or the greater part of the patrons of and persons advertising in said The Milwaukee Journal were
37 pursuant to said combination and confederacy on the part of said Albert Huegin, Andrew J. Aikens and Melvin A. Hoyt, and in furtherance thereof notified by them of the said agreement and combination between the said Aikens, Hoyt and Huegin that many of the patrons and advertisers in said The Milwaukee Journal were induced thereby to withdraw their advertisements therefrom, greatly to the injury of the business and trade of said The Journal Company and of said Lucius W. Nieman, Lloyd T. Boyd and John W. Schaum, and that pursuant to said combination, agreement and confederation and in furtherance thereof the said Andrew J. Aikens, Albert Huegin and Melvin A. Hoyt had refused to allow the advertisements of divers merchants and other persons to be inserted in either the Milwaukee Sentinel, the Evening Wisconsin or the Milwaukee Daily News aforesaid, and did prevent the advertisements of divers merchants and other persons from appearing in any or all of said last three mentioned newspapers because such merchant or other persons so prevented had paid or agreed to pay to said The Journal Company, the said increased rate for advertising established by it as aforesaid, and that by reason of said combination and agreement many merchants in the city of Milwaukee and elsewhere and other persons were prevented from advertising in said The Milwaukee Journal greatly to the injury of the business and trade of said The Journal Company and of the said Lucius W. Nieman, Lloyd T. Boyd and John W. Schaum, and each of them; and that the herein-

before-mentioned acts, intentions and agreements and combinations were done, harbored, made and entered into in trade competition and that such hereinbefore-mentioned acts, intentions, agreements and combinations, and none other, constitute the alleged unlawful conspiracy in said information mentioned.

And this defendant submits to this honorable court that notwithstanding the foregoing the State of Wisconsin ought not further to prosecute the information against him because for more than twenty years last past and at all times in said information mentioned he was and he now is, and he at all said times has been, a lawful citizen of the United States and of the State of Wisconsin, and that each of his said codefendants, the said Albert Huegin and Melvin A. Hoyt, was, during all said times last mentioned and now is, a lawful citizen of the United States and of the State of Wisconsin, and that during all the times in said information mentioned and for many years prior to said time this defendant and each of his said
38 codefendants was engaged at the city of Milwaukee, in the county of Milwaukee, in the State of Wisconsin, in his business, trade or calling of managing the business departments respectively of the newspapers mentioned in said information other than the Milwaukee Journal and in procuring and securing advertising patronage and custom for said newspapers last mentioned in lawful trade or business competition with said The Milwaukee Journal, and that therefore this defendant and his said codefendants at all times in said information mentioned had and enjoyed the right, privilege and immunity as free men and as such citizens of the United States and of the State of Wisconsin and as such competitors in business, any statute of the State of Wisconsin or judicial decision of the courts of the State of Wisconsin to the contrary notwithstanding, under article 14 of the Constitution of the United States to combine, associate, confederate and agree together for the purpose of injuring the said The Journal Company or any stockholder thereof in its said The Journal Company's trade and business by doing the things and making the agreements in said information set out and herein confessed and admitted.

Wherefore, the said Andrew J. Aikens prays judgment on the said information that it be quashed and held for naught and he go hence without day, and will ever pray, etc.

ANDREW J. AIKENS.

STATE OF WISCONSIN, } ss:
Milwaukee County, }

Andrew J. Aikens being duly sworn, says he has signed the foregoing plea and knows its contents and that the same is true.

ANDREW J. AIKENS.

Subscribed and sworn to before me, October 21, A. D. 1901.

EDWARD A. CONWAY,
Notary Public, Milwaukee County, Wisconsin.

My commission expires Jan. 1, 1905.

I certify that in my opinion the foregoing plea is good and sufficient in law.

W. H. TIMLIN,
Attorney and Counselor at Law.

(Endorsements:) Municipal court, Milwaukee county. State of Wisconsin *vs.* A. J. Aikens *et al.* A. J. Aikens. Filed October 21, 1901. Frank E. Woller, clerk of municipal court.

39 Municipal Court, Milwaukee County.

STATE OF WISCONSIN, Plaintiff,
vs.
ALBERT HUEGIN, ANDREW J. AIKENS, and MELVIN A. HOYT, Defendants.

The judge of the above-mentioned court having been at the time of instituting of the prosecution of the above-entitled cause district attorney of Milwaukee county, and having been consulted in regard to the same, and having been attorney for the prosecution in said cause, and the judge of this court having for said reasons called upon the Hon. George W. Burnell, circuit judge of the third judicial circuit, to attend and hold court during the trial of said cause, and the said circuit judge, the Hon. George W. Burnell, having consented to attend and hold court during the trial of this cause, and having set Wednesday, November 20th, 1901, at ten o'clock a. m., as the date and time when he would so attend and hold court for the trial of said cause, it is hereby

Ordered, that this cause be, and the same hereby is, set for trial in this court, before the said circuit judge, the Hon. George W. Burnell, on the 20th day of November, 1901, at ten o'clock a. m., of said day, and it is hereby further

Ordered, that the clerk of this court shall, in writing notify the parties in this cause and their respective attorneys of the time and place set for the hearing of said cause, and of the judge who will preside therein.

By the court,

A. C. BRAZEE, *Judge.*

Milwaukee, November 11th, 1901.

(Endorsements:) Municipal court, Milwaukee county. State of Wisconsin *vs.* Albert Huegin *et al.* Order setting case for trial. Filed Nov. 11, 1901. Frank E. Woller, clerk of municipal court.

40 Municipal Court, Milwaukee County.

STATE OF WISCONSIN, Plaintiff,
vs.
ALBERT HUEGIN, ANDREW J. AIKENS, and MELVIN A. HOYT, Defendants.

To Albert Huegin and Van Dyke, Van Dyke & Carter, his attorneys; to Andrew J. Aikens and Timlin, Glicksman & Conway, his attorneys, and to Melvin A. Hoyt and N. S. Murphy, his attorney:

Please take notice, that Hon. George W. Burnell, circuit judge of the third judicial circuit, who was heretofore called by Hon. A. C. Brazee, judge of the municipal court, has consented to attend and hold court during the trial of the above cause; and you, and each of you, are hereby notified that the above cause has been set for trial before said circuit judge, the Hon. George W. Burnell, Wednesday, November 20, 1901, at ten o'clock a. m. of said day, at the municipal court room, in the city hall of the city of Milwaukee, county of Milwaukee, Wisconsin.

By order of the court.

FRANK E. WOLLER,
Clerk of the Municipal Court.

Dated this 11th day of November, 1901.

(Endorsements.)

STATE OF WISCONSIN, } ss:
Milwaukee County, }

I hereby certify that at the city of Milwaukee, in said county, on the 12th day of November, 1901, I served the within notice on the within named Albert Huegin, one of the defendants, on Van Dyke, Van Dyke & Carter, his attorneys; on Andrew J. Aikens, one of the defendants, on Timlin, Glicksman & Conway, his attorneys; and on Melvin A. Hoyt, one of the defendants; and on N. S. Murphy, his attorney, personally, by delivering to and leaving with each of them a true copy thereof.

I further certify that at the time of said service I endorsed the date of service, my name and official title on each copy so served.

THEODORE ZILLMER, *Sheriff,*
Per Z. CLAYTON, *Deputy.*

Service	$3.50
Copies	2.10
Travel	.20
Ret.	.25
	$6.05

Municipal court, Milwaukee county. State of Wisconsin *v.* Albert Huegin *et al.* Notice of time of hearing. Filed Nov. 18, 1901. Frank E. Woller, clerk of municipal court. Docket No. 2490. Theodore Zillmer, sheriff.

41 Municipal Court, Milwaukee County.

STATE OF WISCONSIN, Plaintiff,
vs.
ALBERT HUEGIN, ANDREW J. AIKENS, and MELVIN A. HOYT, Defendants.

To Andrew J. Aikens, and to Timlin, Glicksman & Conway, his attorneys:

Please take notice, that upon the application hereto annexed, a copy of which is herewith served upon you, and on all the pleadings heretofore filed and served in the above-entitled matter, the State of Wisconsin, by W. H. Bennett, district attorney for Milwaukee county, who prosecutes for the State in the above-entitled matter, will move the court on the 20th day of November, 1901, at the opening of court on that day, or as soon as counsel can be heard, to strike out the special plea in bar filed by the said defendant, Andrew J. Aikens, herein, on the 21st day of October, 1901, for the reasons set forth in the annexed petition.

W. H. BENNETT,
District Attorney in and for Milwaukee County, Wisconsin.

Dated this 14th day of November, A. D. 1901.

42 Municipal Court, Milwaukee County.

STATE OF WISCONSIN, Plaintiff,
vs.
ALBERT HUEGIN, ANDREW J. AIKENS, and MELVIN A. HOYT, Defendants.

And now comes the plaintiff, The State of Wisconsin, by W. H. Bennett, district attorney for Milwaukee county, who prosecutes for the said State in this behalf, and says, that the information herein and all matters therein contained in manner and form are sufficient in law to compel the said defendant, Andrew J. Aikens, to answer the same.

And further says, as to the plea filed October 21, 1901, in the above-entitled matter by Andrew J. Aikens, one of the defendants, that the same and all matters therein contained in manner and form as the same are pleaded and set forth, are not sufficient in law to bar or preclude the said State from prosecuting the said information against him, the said Andrew J. Aikens, and that the said State is not bound by the law of the land to answer the same.

Wherefore, for want of sufficient plea in this behalf on the part of said defendant, Andrew J. Aikens, The State of Wisconsin, the

plaintiff herein, prays, that the said plea of the said Andrew J. Aikens be stricken out and that the said defendant, Andrew J. Aikens, be directed and required to plead to the said information in the manner and form provided by law.

STATE OF WISCONSIN, } ss:
Milwaukee County, }

W. H. Bennett, being first duly sworn, on oath, deposes and says, that he is the district attorney in and for the county of Milwaukee; that he has heard read the foregoing petition and knows the
43 contents thereof, and that the same is true of his own knowledge, except as to those matters therein stated on information and belief, and as to those matters he believes it to be true.

W. H. BENNETT.

Subscribed and sworn to before me, this 14th day of November, A. D. 1901.

F. J. KNOELL,
Notary Public, Milwaukee County, Wisconsin.

(Endorsements:) Municipal court, Milwaukee county. State of Wisconsin *v.* Albert Huegin *et al.* W. H. Bennett, district attorney. Docket No. 2518. Theodore Zillmer, sheriff. Filed Nov. 20, 1901. Frank E. Woller, clerk of municipal court.

STATE OF WISCONSIN, } ss:
Milwaukee County, }

I hereby certify that at the city of Milwaukee, in said county, on the 15th day of November, 1901, I served the within notice and affidavit annexed on the within-named Andrew J. Aikens, personally, by delivering to and leaving with him a true copy thereof.

I further certify, that at the time of said service I endorsed the date of service, my name and official title on the copy so served.

THEODORE ZILLMER, *Sheriff,*
Per Z. CLAYTON, *Deputy.*

Service	$1.00
Copies	.80
Travel	.20
Ret.	.25
	$2.25

44 Municipal Court, Milwaukee County.

STATE OF WISCONSIN, Plaintiff,
vs.
ALBERT HUEGIN, ANDREW J. AIKENS, and MELVIN A. HOYT, Defendants.

To Andrew J. Aikens and to Timlin, Glicksman & Conway, his attorneys:

Please take notice, that upon the application hereto annexed, a copy of which is herewith served upon you, and on all the pleadings heretofore filed and served in the above-entitled matter, the State of Wisconsin, by W. H. Bennett, district attorney for Milwaukee county, who prosecutes for the State in the above-entitled matter, will move the court on the 20th day of November, 1901, at the opening of court on that day, or as soon as counsel can be heard, to strike out the special plea in bar filed by the said defendant, Andrew J. Aikens, herein, on the 21st day of October, 1901, for the reasons set forth in the annexed petition.

W. H. BENNETT,
District Attorney in and for Milwaukee County, Wisconsin.

Dated this 14th day of November, A. D. 1901.

(Endorsements.)

STATE OF WISCONSIN, } ss:
Milwaukee County, }

I hereby certify that at the city of Milwaukee, in said county, on the 15th day of November. 1901, I served the within notice and affidavit annexed on the within-named Timlin, Glicksman & Conway personally by delivering to and leaving with them a true copy thereof.

I further certify that at the time of said service I endorsed the date thereon, my name and official title on the copy so served.

THEODORE ZILLMER, *Sheriff*,
By Z. CLAYTON, *Deputy*.

Service	1.00
Copies	.80
Travel	.20
Ret	.25
	$2.25

45 Municipal Court, Milwaukee County.

STATE OF WISCONSIN, Plaintiff,
vs.
ALBERT HUEGIN, ANDREW J. AIKENS, and MELVIN A. HOYT, Defendants.

And now comes the plaintiff, The State of Wisconsin, by W. H. Bennett, district attorney for Milwaukee county, who prosecutes for the said State in this behalf, and says, that the information herein and all matters therein contained in manner and form are sufficient in law to compel the said defendant, Andrew J. Aikens, to answer the same.

And further says, as to the plea filed October 21, 1901, in the above-entitled matter by Andrew J. Aikens, one of the defendants, that the same and all matters therein contained in manner and form as the same are pleaded and set forth, are not sufficient in law to bar or preclude the said State from prosecuting the said information against him, the said Andrew J. Aikens, and that the said State is not bound by the law of the land to answer the same.

Wherefore, for want of sufficient plea in this behalf on the part of said defendant, Andrew J. Aikens, The State of Wisconsin, the plaintiff herein, prays, that the said plea of the said Andrew J. Aikens be stricken out and that the said defendant, Andrew J. Aikens, be directed and required to plead to the said information in the manner and form provided by law.

STATE OF WISCONSIN, } ss:
Milwaukee County, }

W. H. Bennett, being first duly sworn on oath, deposes and says, that he is the district attorney in and for the county of Milwaukee; that he has heard read the for-going petition and knows the
46 contents thereof, and that the same is true of his own knowledge, except as to those matters therein stated on information and belief, and as to those matters he believes it to be true.

W. H. BENNETT.

Subscribed and sworn to before me, this 14th day of November, A. D. 1901.

F. J. KNOELL,
Notary Public, Milwaukee County, Wisconsin.

(Endorsements:) Municipal court, Milwaukee county. State of Wisconsin *vs.* Albert Huegin *et al.* Docket No. 2521. Theodore Zillmer, sheriff. Filed Nov. 20, 1901. Frank E. Woller, clerk of municipal court. W. H. Bennett, district attorney.

47 In Municipal Court, Milwaukee County.

STATE OF WISCONSIN, Plaintiff,
vs.
ANDREW J. AIKENS ET AL., Defendants.

This case coming on on November 20th, A. D. 1901, at the then current term of said court, Hon. George W. Burnell, judge presiding, he having been called in by Judge A. C. Brazee, who had heretofore acted for the State in this matter; and the defendant, Andrew J. Aikens, having filed and served a special plea in bar, and the district attorney having demurred to said plea, and the court having sustained said demurrer, to which ruling the said Andrew J. Aikens then and there duly excepted, said exception is hereby allowed and signed, and the said Andrew J. Aikens thereupon declared in open court that he stood upon said plea, and the court thereupon found Andrew J. Aikens guilty as charged in the information, and sentenced him to pay a fine of 150 dollars, together with 67.10 dollars, one-third of the costs of prosecution, and that in default of the payment of such fine and costs the said Andrew J. Aikens be committed to the House of Correction for Milwaukee county until such fine and costs are paid, not to exceed 30 days, to which judgment the said Andrew J. Aikens duly excepted, and the exception is hereby allowed and signed. And thereupon, the said Andrew J. Aikens asked for a stay of proceedings until the return of and filing of the remittitur finally in this cause in this court, for the purpose of enabling him to review said judgment by writ of error under and pursuant to sections 4720 and 4722 of the Revised Statutes, which stay of proceedings is hereby granted, provided that the said Andrew J. Aikens recognize to the State of Wisconsin in the sum of five hundred dollars, with sufficient sureties for his personal appearance at the supreme court at the next term
48 thereof, to then enter and prosecute his said exceptions with effect, and abide the sentence thereon, and in the meantime keep the peace and be of good behavior. Recognizance offered and filed and sureties approved.

Dated this 20th day of November, A. D. 1901.

By the court,

GEORGE W. BURNELL,
Judge Presiding.

(Endorsements:) Municipal court, Milwaukee county. State of Wisconsin *v.* Andrew J. Aikens *et al.* Exceptions. W. H. Timlin, attorney for Andrew J. Aikens. Filed Nov. 20, 1901. Frank E. Woller, clerk of municipal court.

49 STATE OF WISCONSIN, } ss:
Milwaukee County, }

In the Municipal Court of the County of Milwaukee.

We, Andrew J. Aikens, and Herman Bleyer and F. M. Harbach, of the county of Milwaukee, acknowledge ourselves to be indebted to

the State of Wisconsin in the sum of $500.00 *dollars*, to be made and levied of our several goods and chattels, lands and tenements, if default be made in the following condition, to wit:

The condition of this recognizance is such that, whereas, the said Andrew J. Aikens was, on the 20th day of November, A. D. 1901, convicted before the municipal court of the county of Milwaukee, of the offense of conspiracy to injure and sentenced to pay a fine of 150.00 dollars, and costs taxed at 67.10 dollars, and to be committed to the House of Correction of said county, until such fine and costs are paid or discharged, such imprisonment not to exceed 30 days; and whereas, the said Andrew J. Aikens has presented exceptions under section 7220 R. S. which were allowed, preparatory to suing out a writ of error from the judgment of said municipal court rendered thereon, to the supreme court of the State of Wisconsin; now, therefore, if the said Andrew J. Aikens shall personally appear in the supreme court of the State of Wisconsin on the first day of the next regular term of said court, and from time to time thereafter until discharged by law, and to enter and there prosecute his exceptions with effect, and abide the sentence of the court thereon, and in the meantime keep the peace and be of good behavior, then this recognizance to be void, otherwise of force.

Dated, Milwaukee, this 20th day of November, 1901.

A. J. AIKENS.
HERMAN BLEYER.
FRANK M. HARBACH.

50 STATE OF WISCONSIN, } ss:
Milwaukee County, }

Andrew J. Aikens, and Herman Bleyer and F. M. Harbach, the sureties above named, being severally duly sworn, each for himself on oath, says that he owns and possesses unincumbered real estate, within this State, not exempt from sale on execution, worth at least the sum of one thousand dollars.

A. J. AIKENS.
HERMAN BLEYER.
FRANK M. HARBACH.

Subscribed and sworn to before me, this 20th day of November, A. D. 1901.

THOS. V. DALLY,
Deputy Clerk of the Municipal Court.

Approved Nov. 20th, 1901.

FRANK E. WOLLER,
Clerk of the Municipal Court.

(Endorsements:) State of Wisconsin, Milwaukee county. Municipal court, county of Milwaukee. The State of Wisconsin against A. J. Aikens. Recognizance for appeal. Approved as to form and sufficiency of sureties, this 20th day of November, 1901. Geo. W. Burnell, judge. Filed Nov. 20, 1901. Frank E. Woller, clerk of municipal court.

51 Municipal Court, Milwaukee County.

STATE OF WISCONSIN, Plaintiff,
vs.
ANDREW J. AIKENS ET AL., Defendants.

At a regular term of said court current on November 20, A. D. 1901, Honorable George W. Burnell, judge presiding, who having been called in by Judge A. C. Brazee for the reason that the latter was disqualified having heretofore acted for the State in this matter, the State of Wisconsin appeared by W. H. Bennett, district attorney of Milwaukee county, and the accused defendant aforesaid, Andrew J. Aikens, appeared by W. H. Timlin, his attorney, and the following proceedings were had; Said district attorney in behalf of the State presented his motion to strike out the special plea in bar interposed by the said defendant Andrew J. Aikens, and after hearing the said district attorney for said motion and the said W. H. Timlin, opposed, said motion was denied; whereupon the said district attorney asked that his motion papers might stand and be considered as a demurrer to such special plea in bar and the accused defendant consenting thereunto it was so ordered. Whereupon after hearing the said district attorney in behalf of the State and the said W. H. Timlin in behalf of the accused defendant Andrew J. Aikens, the court ordered that said demurrer of the State to said special plea in bar be and the same was sustained, to which ruling the said accused defendant Andrew J. Aikens then and there duly excepted, which exception was reduced to writing and then and there allowed, whereupon the said accused defendant Andrew J. Aikens declared that he stood upon said plea and did not desire to plead over. The court then found the said accused defendant guilty as charged in the information and sentenced him to pay a fine of one hundred and fifty dollars together with sixty-seven and $\frac{10}{100}$ (67.10) dollars costs, being one-third of the whole cost of this proceeding, and in default of such payment be committed to the House of Correction for Milwaukee county until such fine and costs are paid, not, however, in all exceeding thirty days. Whereupon the said accused defendant Andrew J. Aikens then and there duly tendered his exception to said finding and judgment of conviction, which exception was reduced to writing and allowed, and in order that said proceedings had may more certainly appear of record in this cause the foregoing is by consent of both parties this day signed, sealed and certified by me as and for a bill of exceptions on the part of the said accused defendant Andrew J. Aikens in the cause aforesaid.

Dated November 25, A. D. 1901.

GEO. W. BURNELL,
Judge Presiding.

(Endorsements:) Municipal court, Milwaukee county. The State of Wisconsin, plaintiff *vs.* Andrew J. Aikens, defendant. Bill of exceptions. W. H. Timlin, 105 Grand Av., Milwaukee, defendant's attorney. Due service admitted this 25th day of November, 1901.

W. H. Bennett, dist. att'y and attorney for plaintiff, State of Wisconsin. Filed Nov. 26, 1901. Frank E. Woller, clerk of municipal court.

52 In Municipal Court, Milwaukee County.

THE STATE OF WISCONSIN, Plaintiff,
vs.
ANDREW J. AIKENS, ALBERT HUEGIN, and MELVIN A. HOYT, Defendants.

To W. H. Bennett, Esq., district attorney:

You will please take notice that Andrew J. Aikens, one of the defendants in the above-entitled action has this day filed with the clerk of the above-named court a writ of error from the supreme court of the State of Wisconsin in the above-entitled action, and a full, true and complete copy of said writ of error is hereto attached.

Dated Milwaukee, November 26th, 1901.

Yours, etc.,
W. H. TIMLIN,
Attorney for A. J. Aikens, Defendant.

53 STATE OF WISCONSIN, *Supreme Court,* } ss:

The State of Wisconsin to the judge of the municipal court of the county of Milwaukee, in said State, Greeting:

Because, in the record and proceedings, and also in the rendition of judgment, in a suit which was duly tried in the municipal court of Milwaukee county aforesaid, before you, between The State of Wisconsin plaintiff, and Andrew J. Aikens, Albert Huegin and Melvin A. Hoyt, defendants, in a criminal prosecution for misdemeanor manifest error hath intervened to the great damage of the said Andrew J. Aikens, as by his complaint we are informed.

And we being willing that the error, if any there be, should in due manner be corrected and full and speedy justice done to the parties aforesaid, do command you, that if judgment be thereupon given, then you send to the judges of the supreme court of the State of Wisconsin, distinctly and openly, under your seal, with all convenient dispatch, a transcript of the record and proceedings of the suit aforesaid, with all things concerning the same and this writ, so that they may have the same at the next term of our said supreme court, to be held at Madison, in the State aforesaid, on the Tuesday next preceding the second Wednesday in January anno Domini one thousand nine hundred and two that the record and proceedings aforesaid being inspected, we may cause to be further done, for correcting that error, what of right, and according to law and the rules of our said court, ought to be done.

Witness, the Hon. John B. Cassoday, chief justice of the [SEAL.] supreme court of the State of Wisconsin, at Madison, this twenty-sixth day of November, A. D. 1901.

Attest: CLARENCE KELLOGG, *Clerk.*

54 Municipal court, Milwaukee county. State of Wisconsin, plaintiff *v.* Andrew J. Aikens *et al.*, defendants. Notice of filing writ of error. W. H. Timlin, 105 Grand Av., Milwaukee, A. J. Aikens' attorney. Due service admitted this 26th day of November, 1901. W. H. Bennett, district att'y & attorney for plaintiff. Filed Nov. 26, 1901. Frank E. Woller, clerk of municipal court.

55 Municipal Court, Milwaukee County.

STATE OF WISCONSIN, Plaintiff,
vs.
ALBERT HUEGIN, ANDREW J. AIKENS, and MELVIN A. HOYT, Defendants.

The said Albert Huegin in his own proper person cometh into court and having heard the information read, pleads thereunto and says:

That he avers, confesses and admits that on the 5th day of April in the year A. D. one thousand nine hundred the Journal Company in said information named at all of said times was and ever since has been, and now is, a corporation organized and existing under and by virtue of the laws of the State of Wisconsin, and at all of said times was and now is the owner and publisher of a daily newspaper and advertising medium known as the Milwaukee Journal published at the city of Milwaukee, which said newspaper at all of the times therein referred to had and now has a large circulation as a newspaper and advertising medium in the city of Milwaukee and throughout the State of Wisconsin and elsewhere, and that it was at all of said times and now is the business and trade of said The Journal Company to publish said newspaper and to sell and furnish the same to its patrons and subscribers and to solicit and receive, print and publish in said newspaper for hire advertisements for merchants and other persons, as is customary with such newspapers, and that at all of said times and especially on the fifth day of April, A. D. one thousand nine hundred, and subsequently thereto, the said The Journal Company, had a large number of advertisers or patrons who advertised in said newspaper, the Milwaukee Journal, and that a large proportion of the revenue of said The Journal Company, was and is derived from such advertisements; and that the said Lucius W. Nieman, Lloyd T. Boyd and John W. Schaum in said information named, were at all of said times and now are stockholders in said The Journal Company and financially interested in the business
56 and success of said The Journal Company; that the business and trade of the said Lucius W. Nieman is among other things that of editor of said The Milwaukee Journal, and the business and trade of said Lloyd T. Boyd is that of business manager of said The Journal Company, and said The Milwaukee Journal, and that at all of said times the business of said John W. Schaum was and is that of treasurer of said The Journal Company.

And further, that the prices for advertisements and the advertising rates which newspapers such as the said The Milwaukee Journal

and the other newspapers in said information mentioned are entitled to charge, and which advertisers and patrons are willing to pay, had been and are based largely upon the circulation of such papers and the number of their readers.

And further, that early in the year A. D. one thousand nine hundred said The Journal Company, in good faith established a new rate for advertising in said The Milwaukee Journal based among other things upon its increased circulation, and notified the patrons of and advertisers in the said The Milwaukee Journal thereof, which said rate for advertising was an increase of about twenty-five per centum above that which was charged by said The Journal Company for like advertising in the year A. D. one thousand eight hundred and ninety-nine.

And further, that at all of said times the said Andrew J. Aikens was and now is the business manager of the Evening Wisconsin, a daily newspaper published in the city of Milwaukee and having also an extensive circulation and devoted to the purposes of a general newspaper and to advertising for hire like unto the said The Milwaukee Journal; that at all of said times said Albert Huegin was the business manager of the Milwaukee Sentinel, a daily newspaper published at the city of Milwaukee, having an extensive circulation and devoted to the purposes of a general newspaper and to advertising for hire like unto the other newspapers aforementioned; and that at all of said times said Melvin A. Hoyt was and now is the editor of the Milwaukee Daily News and the president of the News Publishing Company, the corporation owning said The Milwaukee Daily News, a daily newspaper published at the city of Milwaukee and devoted to the purposes of a general newspaper and to advertising for hire like unto the other of said newspapers.

And further, that on or about the fifth day of April, A. D. one thousand nine hundred, the said Andrew J. Aikens, Albert Huegin
57 and Melvin A. Hoyt, in furtherance and pursuance of a combination, confederation, association, agreement and mutual understanding for the purpose then and there and with the intent of injuring the said The Journal Company in its trade and business and also the said Lucius W. Nieman, Lloyd T. Boyd and John W. Schaum, and each of them, in their trade and business, and to that end and with such purpose and intent did confederate, agree and mutually undertake that if any merchant or other person or corporation advertising or proposing to advertise in said The Milwaukee Journal should pay or agree to pay to said The Journal Company the increased rate for advertising established or fixed by it as aforesaid, that then and in that case any such person or corporation should not be permitted to advertise in any of said other three newspapers, to wit, said The Milwaukee Sentinel, the Evening Wisconsin and the Milwaukee Daily News, unless such merchant, other person or corporation should advertise in each of said three papers and pay to each of them, or to the respective owners or proprietors of them, a corresponding increase over the rates respectively theretofore charged by such other three newspapers respectively, to

wit: about twenty-five per centum in excess of what said last-mentioned three papers respectively were then charging and had theretofore charged for advertising, but that in case any merchant, other person or corporation should refuse to pay to the said The Journal Company the said increased rate established by it as aforesaid for advertising in said The Milwaukee Journal, then and in that case such merchant or other person or corporation so refusing should be at liberty to advertise in any or all of the other of said three newspapers at the rates which had theretofore been charged by said other three newspapers respectively.

And further, that a large number of merchants in the city of Milwaukee, and other persons, were at the time of said combination and agreement and subsequently thereto advertising in all of said newspapers, to wit: the Milwaukee Journal, the Evening Wisconsin, the Milwaukee Sentinel and the Milwaukee Daily News, and that the right or privilege to advertise in two or more of said papers was and is considered by a large number of such merchants and other persons as a valuable right and privilege and one much to be desired.

And further, that all or the greater part of the patrons of and persons advertising in said The Milwaukee Journal were pur-
58 suant to said combination and confederacy on the part of said Albert Huegin, Andrew J. Aikens and Melvin A. Hoyt and in furtherance thereof notified by them of the said agreement and combination between the said Aikens, Hoyt and Huegin that many of the patrons and advertisers in said The Milwaukee Journal were induced thereby to withdraw their advertisements therefrom, greatly to the injury of the business and trade of said The Journal Company and of said Lucius W. Nieman, Lloyd T. Boyd and John W. Schaum, and that pursuant to said combination, agreement and confederation and in furtherance thereof the said Andrew J. Aikens, Albert Huegin, and Melvin A. Hoyt had refused to allow the advertisements of divers merchants and other persons to be inserted in either the Milwaukee Sentinel, the Evening Wisconsin or the Milwaukee Daily News aforesaid, and did prevent the advertisements of divers merchants and other persons from appearing in any or all of said last three mentioned newspapers because such merchant-, or other persons so prevented had paid or agreed to pay to said The Journal Company, the said increased rate for advertising established by it as aforesaid, and that by reason of said combination and agreement many merchants in the city of Milwaukee and elsewhere and other persons were prevented from advertising in said The Milwaukee Journal greatly to the injury of the business and trade of said The Journal Company and of the said Lucius W. Nieman, Lloyd T. Boyd and John W. Schaum, and each of them; and that the hereinbefore-mentioned acts, intentions and agreements and combinations were done, harbored, made and entered into in trade competition, and that such hereinbefore-mentioned acts, intentions, agreements and combinations, and none other, constitute the alleged unlawful conspiracy in said information mentioned.

And this defendant submits to this honorable court that notwithstanding the foregoing the State of Wisconsin ought not further to prosecute the information against him because for more than twenty years last past and at all times in said information mentioned he was and he now is, and he at all said times has been, a lawful citizen of the United States and of the State of Wisconsin, and that each of his said codefendants the said Andrew J. Aikens and Melvin A. Hoyt was during all said times last mentioned and now is a lawful citizen of the United States and of the State of Wisconsin, and that during all the times in said information mentioned and for many years prior to said time this defendant and each of his said codefendants was engaged at the city of Milwaukee in the
59 county of Milwaukee in the State of Wisconsin in his business, trade or calling of managing the business departments respectively of the newspapers mentioned in said information other than the Milwaukee Journal and in procuring and securing advertising patronage and custom for said newspapers last mentioned in lawful trade or business competition with said The Milwaukee Journal, and that therefore this defendant and his said codefendants at all times in said information mentioned had and enjoyed the right, privilege and immunity as free men and as such citizens of the United States and of the State of Wisconsin and as such competitors in business, any statute of the State of Wisconsin or judicial decision of the courts of the State of Wisconsin to the contrary notwithstanding, under article 14 of the Constitution of the United States to combine, associate, confederate and agree together for the purpose of injuring the said The Journal Company, or any stockholder thereof, in its said The Journal Company's trade and business by doing the things and making the agreements in said information set out and herein confessed and admitted.

Wherefore the said Albert Huegin prays judgment on the said information that it be quashed and held for naught and he go hence without day, and will ever pray, etc.

ALBERT HUEGIN.

STATE OF WISCONSIN, } ss:
Milwaukee County, }

Albert Huegin, being duly sworn, says he has signed the foregoing plea and knows its contents and the same is true.

ALBERT HUEGIN.

Subscribed and sworn to before me, October 21, A. D. 1901.

EDWARD A. CONWAY,
Notary Public, Milwaukee County, Wisconsin.

My commission expires Jan. 1, 1905.

I certify that in my opinion the foregoing plea is good and sufficient in law.

GEO. D. VAN DYKE,
Attorney and Counselor at Law.

(Endorsements:) Municipal court, Milwaukee county. State of Wisconsin *v.* A. Huegin *et al.* A. Huegin. Filed Oct. 21, 1901. Frank E. Woller, clerk of municipal court.

60 Municipal Court, Milwaukee County.

STATE OF WISCONSIN, Plaintiff,
vs.
ALBERT HUEGIN, ANDREW J. AIKENS, and MELVIN A. HOYT, Defendants.

To Albert Huegin, and to Van Dyke, Van Dyke & Carter, his attorneys:

Please take notice, that upon the application hereto annexed, a copy of which is herewith served upon you, and on all the pleadings heretofore filed and served in the above-entitled matter, The State of Wisconsin, by W. H. Bennett, district attorney for Milwaukee county, who prosecutes for the State in the above-entitled matter, will move the court on the 20th day of November, 1901, at the opening of court on that day, or as soon thereafter as counsel can be heard, to strike out the special plea in bar filed by said defendant, Albert Huegin, herein, on the 21st day of October, 1901, for the reasons set forth in the annexed petition.

W. H. BENNETT,
District Attorney in and for Milwaukee County, Wis.

Dated this 14th day of November, A. D. 1901.

61 (Endorsements.)

STATE OF WISCONSIN, } ss:
Milwaukee County, }

I hereby certify that at the city of Milwaukee, in the said county, on the 15th day of November, 1901, I served the within notice and affidavit annexed on the within-named Albert Huegin, personally, by delivering to and leaving with him a true copy thereof.

I further certify that at the time of said service I endorsed the date of service, my name, and official title on the copy so served.

THEODORE ZILLMER, *Sheriff,*
Per Z. CLAYTON, *Deputy.*

Service	$1.00
Copies	.80
Travel	.20
Ret	.25
	$2.25

62 Municipal Court, Milwaukee County.

STATE OF WISCONSIN, Plaintiff,
vs.
ALBERT HUEGIN, ANDREW J. AIKENS, and MELVIN A. HOYT, Defendants.

And now comes the plaintiff The State of Wisconsin, by W. H. Bennett, district attorney for Milwaukee county, who prosecutes for the said State in this behalf, and says, that the information herein and all matters therein contained in manner and form are sufficient in law to compel the said defendant, Albert Huegin, to answer the same.

And further says, as to the plea filed October 21, 1901, in the above-entitled matter, by Albert Huegin, one of the defendants, that the same and all matters therein contained in manner and form as the same are pleaded and set forth, are not sufficient in law to bar or preclude the said State from prosecuting the said information against him, the said Albert Huegin, and that the said State is not bound by the law of the land to answer the same.

Wherefore, for want of a sufficient plea in this behalf on the part of said defendant, Albert Huegin, The State of Wisconsin, the plaintiff herein, prays that the said plea of the said Albert Huegin be stricken out and that the said defendant, Albert Huegin, be directed and required to plead to the said information in the manner and form provided by law.

STATE OF WISCONSIN, } ss:
Milwaukee County, }

W. H. Bennett, being first duly sworn on oath, deposes and says, that he is the district attorney in and for the county of Milwaukee; that he has heard read the foregoing petition and knows the
63 contents thereof, and that the same is true of his own knowledge, except as to those matters therein stated on information and belief, and as to those matters he believes it to be true.

W. H. BENNETT.

Subscribed and sworn to before me, this 14th day of November, A. D. 1901.

F. J. KNOELL,
Notary Public, Milwaukee County, Wisconsin.

(Endorsements:) Municipal court, Milwaukee county. State of Wisconsin *v.* Albert Huegin *et al.* W. H. Bennett, district attorney. Docket No. 2519. Theodore Zillmer, sheriff. Filed Nov. 20, 1901. Frank E. Woller, clerk of municipal court.

64 Municipal Court, Milwaukee County.

STATE OF WISCONSIN, Plaintiff,
vs.
ALBERT HUEGIN, ANDREW J. AIKENS, and MELVIN A. HOYT, Defendants.

To Albert Huegin and to Van Dyke, Van Dyke & Carter, his attorneys:

Please take notice, that upon the application hereto annexed, a copy of which is herewith served upon you, and on all the pleadings heretofore filed and served in the above-entitled matter, the State of Wisconsin, by W. H. Bennett, district attorney for Milwaukee county, who prosecutes for the State in the above-entitled matter, will move the court on the 20th day of November, 1901, at the opening of court on that day, or as soon thereafter as counsel can be heard, to strike out the special plea in bar filed by said defendant, Albert Huegin, herein, on the 21st day of October, 1901, for the reasons set forth in the annexed petition.

W. H. BENNETT,
District Attorney in and for Milwaukee County, Wis.

Dated this 14th day of November, A. D. 1901.

65 Municipal Court, Milwaukee County.

STATE OF WISCONSIN, Plaintiff,
vs.
ALBERT HUEGIN, ANDREW J. AIKENS, and MELVIN A. HOYT, Defendants.

And now comes the plaintiff The State of Wisconsin, by W. H. Bennett, district attorney for Milwaukee county, who prosecutes for the said State in this behalf, and says, that the information herein and all matters therein contained in manner and form are sufficient in law to compel the said defendant, Albert Huegin, to answer the same.

And further says, as to the plea filed October 21, 1901, in the above-entitled matter, by Albert Huegin, one of the defendants, that the same and all matters therein contained in manner and form as the same are pleaded and set forth, are not sufficient in law to bar or preclude the said State from prosecuting the said information against him, the said Albert Huegin, and that the said State is not bound by the law of the land to answer the same.

Wherefore, for want of a sufficient plea in this behalf on the part of said defendant, Albert Huegin, The State of Wisconsin, the plaintiff herein, prays that the said plea of the said Albert Huegin be stricken out and that the said defendant, Albert Huegin, be directed and required to plead to the said information in the manner and form provided by law.

STATE OF WISCONSIN, } ss:
Milwaukee County, }

W. H. Bennett, being first duly sworn on oath, deposes and says, that he is the district attorney in and for the county of Milwaukee; that he has heard read the foregoing petition and knows the
66 contents thereof, and that the same is true of his own knowledge, except as to those matters therein stated on information and belief, and as to those matters he believes it to be true.

W. H. BENNETT.

Subscribed and sworn to before me this 14th day of November, A. D. 1901.

F. J. KNOELL,
Notary Public, Milwaukee County, Wisconsin.

(Endorsements.)

STATE OF WISCONSIN, } ss:
Milwaukee County, }

I hereby certify that at the city of Milwaukee, in said county, on the 15th day of November, 1901, I served the within notice and affidavit annexed on the within-named Van Dyke, Van Dyke & Carter, personally, by delivering to and leaving with them a true copy thereof.

I further certify that at the time of said service I endorsed the date of service, my name and official title on the copy so served.

THEODORE ZILLMER, *Sheriff,*
Per Z. CLAYTON, *Deputy.*

Service	$1.00
Copies	.80
Travel	.20
Ret	.25
	$2.25

Municipal court, Milwaukee county. State of Wisconsin *v.* Albert Huegin *et al.* W. H. Bennett, district attorney. Docket No. 2520. Theodore Zillmer, sheriff. Filed Nov. 20, 1901. Frank E. Woller, clerk of municipal court.

67 In Municipal Court, Milwaukee County.

STATE OF WISCONSIN, Plaintiff,
vs.
ALBERT HUEGIN ET AL., Defendants.

This case coming on on November 20th, A. D. 1901, at the then current term of said court, Hon. George W. Burnell, judge presiding, he having been called in by Judge A. C. Brazee, who had heretofore acted for the State in this matter; and the defendant, Albert

Huegin, having filed and served a special plea in bar, and the district attorney having demurred to said plea, and the court having sustained said demurrer, to which ruling the said Albert Huegin then and there duly excepted, said exception is hereby allowed and signed, and the said Albert Huegin thereupon declared in open court that he stood upon said plea, and the court thereupon found Albert Huegin guilty as charged in the information, and sentenced him to pay a fine of 150 dollars, together with 67.10 dollars, one-third of the costs of prosecution, and that in default of the payment of such fine and costs the said Albert Huegin be committed to the House of Correction for Milwaukee county until such fine and costs are paid, not to exceed 30 days, to which judgment the said Albert Huegin duly excepted, and the exception is hereby allowed and signed. And thereupon, the said Albert Huegin asked for a stay of proceedings until the return of and filing of the remittitur finally in this cause in this court, for the purpose of enabling him to review said judgment by writ of error under and pursuant to sections 4720 and 4722 of the Revised Statutes, which stay of proceedings is hereby granted, provided that the said Albert Huegin recognize to the State of Wisconsin in the sum of $500 *dollars*, with sufficient sure-
68 ties for his personal appearance at the supreme court at the next term thereof, to then enter and prosecute his said exceptions with effect, and abide the sentence thereon, and in the meantime keep the peace and be of good behavior. Recognizance offered and filed and sureties approved.

Dated this 20th day of November, A. D. 1901.

By the court,

GEO. W. BURNELL,
Judge Presiding.

(Endorsements:) Municipal court, Milwaukee county. State of Wisconsin *v.* Andrew J. Aikens *et al.* Exceptions. Geo. D. Van Dyke, attorney for Albert Huegin. Filed Nov. 20, 1901. Frank E. Woller, clerk of municipal court.

69 STATE OF WISCONSIN, } ss:
Milwaukee County, }

In the Municipal Court of the County of Milwaukee.

We, Albert Huegin, and J. H. Puelicher and Herman Bleyer, of the county of Milwaukee, acknowledge ourselves to be indebted to the State of Wisconsin in the sum of five hundred dollars, to be made and levied of our several goods and chattels, lands and tenements, if default be made in the following condition, to wit:

The condition of this recognizance is such that, whereas, the said Albert Huegin was, on the 20th day of November, A. D. 1901, convicted before the municipal court of the county of Milwaukee, of the offense of conspiracy to injure, and sentenced to pay a fine of one hundred and fifty dollars, and costs taxed at sixty-seven and $\frac{10}{100}$ dollars, aggregating $217.10, and to be committed to the House of

Correction of said county, until such fine and costs are paid or discharged, such imprisonment not to exceed 30 days; and whereas, the said Albert Huegin has presented exceptions which were allowed and signed preparatory to suing out a writ of error from the judgment of said municipal court rendered thereon, to the supreme court of the State of Wisconsin.

Now, therefore, if the said Albert Huegin shall personally appear in said supreme court on the first day of the next regular term of said court, and from time to time thereafter until discharged by law, and to enter and there prosecute his exceptions with effect, and abide the sentence of the court thereon, and in the meantime keep the peace and be of good behavior, then this recognizance to be void, otherwise of force.

Dated, Milwaukee, this 20th day of November, 1901.

ALBERT HUEGIN.
HERMAN BLEYER.
J. H. PUELICHER.

70 STATE OF WISCONSIN, } ss:
Milwaukee County, }

J. H. Puelicher and Herman Bleyer, the sureties above named, being severally duly sworn, each for himself on oath, says that he owns and possesses unincumbered real estate, within this State, not exempt from sale on execution, worth at least the sum of one thousand dollars.

J. H. PUELICHER.
HERMAN BLEYER.

Subscribed and sworn to before me this 20th day of November, A. D. 1901.

THOS. V. DALLY,
Deputy Clerk of the Municipal Court.

Approved Nov. 20, 1901.
FRANK E. WOLLER,
Clerk of the Municipal Court.

(Endorsements:) State of Wisconsin, Milwaukee county. Municipal court, county of Milwaukee. The State of Wisconsin against Albert Huegin. Recognizance for appeal. Approved as to form and sufficiency of sureties this 20th day of November, 1901. George W. Burnell, judge. Filed Nov. 20, 1901. Frank E. Woller, clerk of municipal court.

71 Municipal Court, Milwaukee County.

STATE OF WISCONSIN, Plaintiff,
vs.
ALBERT HUEGIN ET AL., Defendants.

At a regular term of said court current on November 20, A. D. 1901, Honorable George W. Burnell judge presiding, who having

been called in by Judge A. C. Brazee for the reason that the latter was disqualified, having heretofore acted for the State in this matter, the State of Wisconsin appeared by W. H. Bennett, district attorney of Milwaukee county, and the accused defendant aforesaid, Albert Huegin, appeared by George D. Van Dyke, his attorney, and the following proceedings were had; said district attorney in behalf of the State presented his motion to strike out the special plea in bar interposed by the said defendant Albert Huegin and after hearing the said district attorney for said motion and the said Albert Huegin opposed said motion was denied; whereupon the said district attorney asked that his said motion papers might stand and be considered as a demurrer to such special plea in bar and the accused defendant consenting thereunto it was so ordered. Whereupon after hearing the said district attorney in behalf of the State and the said Geo. D. Van Dyke in behalf of the accused defendant Albert Huegin, the court ordered that said demurrer of the State to said special plea in bar be and the same was sustained, to which ruling the said accused defendant Albert Huegin then and there duly excepted, which exception was reduced to writing and then and there allowed, whereupon the said accused defendant Albert Huegin declared that he stood upon said plea and did not desire to plead over. The court then found the said accused defendant guilty as charged in the information and sentenced him to pay a fine of one hundred and fifty dollars, together with sixty seven and $\frac{10}{100}$ dollars costs, being one-third of the whole cost of this proceeding, and in default of such payment to be committed to the House of Correction for Milwaukee county until such fine and costs are paid, not, however, in all exceeding thirty days. Whereupon the said accused defendant Albert Huegin then and there duly tendered his exception to said finding and judgment of conviction, which exception was reduced to writing and allowed; and in order that said proceedings had may more certainly appear of record in this cause, the foregoing is by consent of both parties this day signed, sealed and certified by me as and for a bill of exceptions on the part of the said accused defendant Albert Huegin in the cause aforesaid.

Dated November 25, A. D. 1901.

GEO. W. BURNELL,
Judge Presiding.

(Endorsements:) Municipal court, Milwaukee county. The State of Wisconsin, plaintiff, *vs.* Albert Huegin, defendant. Bill of exceptions. Van Dyke, Van Dyke & Carter, room 112 New Insurance building, Milwaukee, Wisconsin, attorneys for defendant, Albert Huegin. Filed Nov. 26, 1901. Frank E. Woller, clerk of municipal court.

72 In Municipal Court, Milwaukee County.

THE STATE OF WISCONSIN, Plaintiff,
vs.
ANDREW J. AIKENS, ALBERT HUEGIN, and MELVIN A. HOYT, Defendants.

To W. H. Bennett, Esq., district attorney:

You will please take notice that Albert Huegin, one of the defendants in the above-entitled action has this day filed with the clerk of the above-named court a writ of error from the supreme court of the State of Wisconsin in the above-entitled action, and a full, true and complete copy of said writ of error is hereto attached.

Dated Milwaukee, November 26th, 1901.

Yours, etc., GEO. D. VAN DYKE,
Attorney for Albert Huegin, Defendant.

73 STATE OF WISCONSIN, } ss:
Supreme Court, }

The State of Wisconsin to the judge of the municipal court of the county of Milwaukee, in said State, Greeting:

Because, in the record and proceedings, and also in the rendition of judgment, in a suit which was duly tried in the municipal court of Milwaukee county aforesaid, before you, between The State of Wisconsin plaintiff, and Andrew J. Aikens, Albert Huegin and Melvin A. Hoyt, defendants, in a criminal prosecution for misdemeanor manifest error hath intervened to the great damage of the said Albert Huegin, as by his complaint we are informed.

And we being willing that the error, if any there be, should in due manner be corrected and full and speedy justice done to the parties aforesaid, do command you, that if judgment be thereupon given, then you send to the judges of the supreme court of the State of Wisconsin, distinctly and openly, under your seal, with all convenient dispatch, a transcript of the record and proceedings of the suit aforesaid, with all things concerning the same and this writ, so that they may have the same at the next term of our said supreme court, to be held at Madison, in the State aforesaid, on the Tuesday next preceding the second Wednesday in January anno Domini one thousand nine hundred and two that the record and proceedings aforesaid being inspected, we may cause to be further done, for correcting that error, what of right, and according to law and the rules of our said court, ought to be done.

Witness, the Hon. John B. Cassoday, chief justice of the supreme court of the State of Wisconsin, at Madison, this twenty-
[SEAL.] sixth day of November, A. D. 1901.

Attest: CLARENCE KELLOGG, *Clerk.*

74 (Endorsements:) Municipal court, Milwaukee county. State of Wisconsin, plaintiff, *v.* A. J. Aikens *et al.*, defend-

ants. Notice of filing writ of error. Due service of the within notice admitted this 26th day of November, A. D. 1901. W. H. Bennett, district att'y and att'y for plaintiff. Filed Nov. 26, 1901. Frank E. Woller, clerk of municipal court.

75 STATE OF WISCONSIN:

Municipal Court, Milwaukee County.

STATE OF WISCONSIN, Plaintiff,
vs.
MELVIN A. HOYT, ANDREW J. AIKENS, and ALBERT HUEGIN, Defendants.

And the said Melvin A. Hoyt separately and in his own proper person, cometh into court here, and having heard the information read, saith that the said information, and the matters therein contained, in manner and form as the same are above stated and set forth, are not sufficient in law, and that he is not bound by the law of the land to answer the same; and in addition thereto this defendant alleges, the following special objections to the said information, to wit:

(1.) That the said several alleged conspiracies, combinations, confederations, associations, agreements and mutual understandings between this defendant and the other defendants named in the said information, were such conspiracies, combinations, confederations, associations, agreements and understandings as this defendant and the said other defendants had a lawful right to make and enter into as forming a part of their legitimate trade and competition between the said defendants with the said Journal Company and its officers and stockholders in the lawful conduct of the business of this defendant and the said other defendants as publishers of the newspapers respectively conducted by the said defendants, and the said Journal Company.

(2.) That the several acts charged in the said information as having been performed by this defendant and the said other defendants, do not state any criminal offense known to the law, but such acts, and each and every of them, were lawful and legitimate acts of competition in trade such as this defendant and said other defendants had lawful right to perform in the law.

(3.) That the said several alleged conspiracies, combinations, confederations, associations, agreements and mutual understand-
76 ings had between this defendant and the said other defendants Andrew J. Aikens and Albert Huegin, were such conspiracies, combinations, associations, agreements and mutual understandings as this defendant and the said other defendants, as citizens of the United States and the State of Wisconsin, had lawful right to make and enter into in the conduct and management of the said several newspapers so published by this defendant and the said other defendants, Andrew J. Aikens and the said Albert Huegin respectively, under the Constitution and laws of the United States, and especially under and by virtue of the provisions of article XIV. of the amend-

ments to the Constitution of the United States, and this defendant claims the protection thereof.

(4.) That the several acts charged therein, as having been done and performed by this defendant and the said other defendants, Andrew J. Aikens and Albert Huegin, in furtherance of the said alleged several conspiracies, combinations, confederations, associations, agreements and mutual understandings between this defendant and the said other defendants, were severally and respectively such acts as this defendant and the said other defendants had lawful right to do and perform as citizens of the United States and of the State of Wisconsin, as lawful and legitimate conspiracies, combinations, confederations, associations, agreements and mutual understandings, in the conduct of the business of this defendant and the publications of his said newspaper, and that of the newspapers of said other defendants, and in the publication of the said newspapers published by them respectively, and that such acts were innocent acts and lawful acts of competition in the trade and business of this defendant and in the trade and business of the said other defendants, under the Constitution and laws of the United States and especially under the provisions of article XIV. of the amendments to the Constitution of the United States, and this defendant claims the protection thereof.

(5.) And because the said information does not state any fact or facts which constitute a criminal offense known to the laws of the State of Wisconsin, but the acts so charged were and are legitimate acts of trade and competition such as any citizen of said State might lawfully employ in the conduct of his business; and this he is ready to verify.

Wherefore, for want of a sufficient information in this behalf, the said Melvin A. Hoyt prays judgment, and that by this court here he may be dismissed and discharged from the said premises in the said information specified.

NEWTON S. MURPHEY,
Attorney for Melvin A. Hoyt, One of the Defendants.

(Endorsements:) State of Wisconsin, municipal court, Milwaukee county. State of Wisconsin, plaintiff, *v.* Melvin A. Hoyt, Andrew J. Aikens and Albert Huegin, defendants. Demurrer of def't Hoyt. Filed Oct. 21st, 1901. Frank E. Woller, clerk of municipal court. N. S. Murphey, att'y for def't Hoyt.

77 In Municipal Court, Milwaukee County.

STATE OF WISCONSIN, Plaintiff,
vs.
MELVIN A. HOYT ET AL., Defendants.

This cause coming on on November 20th, A. D. 1901, at the then current term of said court, Hon. George W. Burnell, judge presiding, he having been called in by Judge A. C. Brazee, who had heretofore acted for the State in this matter; and the defendant, Melvin A. Hoyt,

having filed and served a demurrer to the information filed herein and the court having overruled said demurrer, to which ruling the said Melvin A. Hoyt then and there duly excepted, said exception is hereby allowed, and the said Melvin A. Hoyt thereupon declared in open court that he stood upon said demurrer, and the court thereupon found said Melvin A. Hoyt guilty as charged in the information, and sentenced him to pay a fine of one hundred and fifty dollars together with $67.10, one-third of the costs of prosecution, and that in default of the payment of such fine and costs the said Melvin A. Hoyt be committed to the House of Correction for Milwaukee county until such fine and costs are paid, not to exceed 30 days, to which judgment the said Melvin A. Hoyt duly excepted, and the exception is hereby allowed. And thereupon, the said Melvin A. Hoyt asked for a stay of proceedings until the return of and filing of the remittitur finally in this cause, for the purpose of enabling him to review said judgment by writ of error under and pursuant to sections 4720 and 4722 of the Revised Statutes, which stay of proceedings is hereby granted, provided that the said Melvin A. Hoyt recognize to the State of Wisconsin in the sum of $500.00, with sufficient sureties for his personal appearance at the supreme court at
78 the next term thereof, to then enter and prosecute his said exceptions with effect, and abide the sentence thereon, and in the meantime keep the peace and be of good behavior. Recognizance offered and filed and sureties approved.

Dated this 20th day of November, A. D. 1901.

By the court,

GEO. W. BURNELL,
Judge Presiding.

(Endorsements:) Municipal court, Milwaukee county. State of Wisconsin *v.* Melvin A. Hoyt *et al.* Exceptions. N. S. Murphey, attorney for Melvin A. Hoyt. Filed Nov. 20, 1901. Frank E. Woller, clerk of municipal court.

79 STATE OF WISCONSIN, *Milwaukee County,* } ss:

In the Municipal Court of the County of Milwaukee.

We, Melvin A. Hoyt, Frederick Seibel and George Brumder, of the county of Milwaukee, acknowledge ourselves to be indebted to the State of Wisconsin in the sum of five hundred dollars, to be made and levied of our several goods and chattels, lands and tenements, if default be made in the following condition, to wit:

The condition of this recognizance is such that, whereas, the said Melvin A. Hoyt was, on the 20th day of November, A. D. 1901, convicted before the municipal court of the county of Milwaukee, of the offense of conspiracy to injure and sentenced to pay a fine of one hundred and fifty dollars, and costs taxed at sixty-seven and $\frac{10}{100}$ dollars, and to be committed to the House of Correction of said county, until such fine and costs are paid or discharged, such imprisonment not to exceed thirty days; and whereas, the said Melvin A. Hoyt

has presented exceptions under R. S. section 7220 which were allowed preparatory to suing out a writ of error from the judgment of said municipal court rendered thereon, to the supreme court of the State of Wisconsin;

Now, therefore, if the said Melvin A. Hoyt shall personally appear in said supreme court of the State of Wisconsin, on the first day of the next regular term of said court, and from time to time thereafter until discharged by law, and *to* enter and prosecute his exceptions with effect, and abide the sentence of the court thereon, and in the meantime keep the peace and be of good behavior, then this recognizance to be void, otherwise of effect.

Dated, Milwaukee, this 20th day of November, 1901.

MELVIN A. HOYT.
FRITZ SEIBEL.
GEO. BRUMDER.

80 STATE OF WISCONSIN, } ss:
Milwaukee County, }

Fred Seibel and Geo. Brumder, the sureties above named, being severally duly sworn, each for himself on oath, says that he owns and possesses unincumbered real estate, within this State, not exempt from sale on execution, worth at least the sum of one thousand dollars.

FRITZ SEIBEL.
GEO. BRUMDER.

Subscribed and sworn to before me, this 20th day of November, A. D. 1901.

THOS. V. DALLY,
Deputy Clerk of the Municipal Court.

Approved Nov. 20, 1901.

FRANK E. WOLLER,
Clerk of the Municipal Court.

(Endorsements:) State of Wisconsin, Milwaukee county. Municipal court, county of Milwaukee. The State of Wisconsin against Melvin A. Hoyt *et al.* Recognizance for appeal. Approved as to form and sufficiency of sureties, this 20th day of November, 1901. Geo. W. Burnell, judge. Filed Nov. 20, 1901. Frank E. Woller, clerk of municipal court.

81 STATE OF WISCONSIN:

In Municipal Court, Milwaukee County.

STATE OF WISCONSIN, Plaintiff, }
vs.
MELVIN A. HOYT ET AL., Defendants. }

At a regular term of said court holden on November 20, A. D. 1901, Honorable George W. Burnell, judge presiding, who having been called in by Judge A. C. Brazee for the reason that the latter

judge was disqualified to try said cause, having heretofore acted for the said State in this matter, as district attorney for the county of Milwaukee, the State of Wisconsin appearing by W. H. Bennett, district attorney of Milwaukee county, and the accused defendant Melvin A. Hoyt aforesaid appearing by Newton S. Murphey, his attorney, and the following proceedings were had: The said cause coming on to be heard upon the demurrer heretofore filed by the said defendant Melvin A. Hoyt to the information filed herein by said district attorney, and after hearing the said district attorney for the State in opposition to the said demurrer, and the defendant Melvin A. Hoyt by his said attorney in support thereof, and the court being advised in the premises, whereupon the court ordered that the said demurrer of the said defendant Melvin A. Hoyt be and the same was thereby overruled, to which ruling the said defendant Melvin A. Hoyt then and there duly excepted, which exception was reduced to writing and then and there allowed, whereupon the said accused defendant Melvin A. Hoyt declared that he stood upon said demurrer and did not desire to plead over. The court thereupon found the said defendant Melvin A. Hoyt guilty as charged in the information and sentenced him to pay a fine of one hundred and fifty dollars, together with sixty-seven and $\frac{10}{100}$ dollars costs, being one-third of the whole cost of this proceeding, and in default of such payment be committed to the House of Correction for Milwaukee county until such fine and costs are paid, not, however, in all exceeding thirty days. Whereupon the said defendant Melvin A. Hoyt then and there duly tendered his exception to said finding and judgment of conviction, which exception was reduced to writing and allowed; and in order that said proceedings had may more certainly appear of record in this cause the foregoing is by consent of both parties this day signed, sealed and certified by me as and for a bill of exceptions on the part of the said accused defendant Melvin A. Hoyt in the cause aforesaid.

Dated November 23, A. D. 1901.

GEORGE W. BURNELL, [SEAL.]
Judge Presiding.

(Endorsements:) Municipal court, Milwaukee county. The State of Wisconsin plaintiff *v.* Melvin A. Hoyt *et al.*, defendants. Bill of exceptions. We consent that Judge Burnell may sign and seal within as bill of exceptions in above cause. Nov. 22, 1901. W. H. Bennett, dist. att'y Mil. Co., Wis. Newton S. Murphey, att'y for def't. Melvin A. Hoyt. Filed Nov. 26, 1901. Frank E. Woller, clerk of municipal court. Newton S. Murphey, att'y for def't Melvin A. Hoyt. Filed Dec. 6, 1901. Clarence Kellogg, clerk of supreme court, Wis.

82 STATE OF WISCONSIN, } ss:
Municipal Court, Milwaukee County, }

I, Frank E. Woller, clerk of the municipal court of Milwaukee county, do hereby certify that I have compared the foregoing copies with the original capias, information for conspiracy, plea of A. J.

Aikens, order setting case for trial, notice of time of hearing, affidavit and notice of motion to strike out plea of A. J. Aikens, affidavit and notice of motion to strike out plea of A. J. Aikens, exceptions of defendant, A. J. Aikens, recognizance of A. J. Aikens, bill of exceptions of A. J. Aikens, notice of filing writ of error of A. J. Aikens, plea of Albert Huegin, affidavit and notice of motion to strike out special plea of Albert Huegin, affidavit and notice of motion to strike out special plea of Albert Huegin, exceptions of defendant, Albert Huegin, recognizance of defendant, Albert Huegin, bill of exceptions of defendant, Albert Huegin, notice of filing writ of error of defendant, Albert Huegin; demurrer of defendant Melvin A. Hoyt, exceptions of defendant, Melvin A. Hoyt, recognizance of defendant Melvin A. Hoyt, bill of exceptions of defendant, Melvin A. Hoyt, together with all endorsements on each and every of the foregoing, entered in the action therein entitled, that it is a correct transcript therefrom and of the whole thereof, as the same remains of record in my office.

In testimony whereof, I have hereunto set my hand and [SEAL.] affixed the seal of said court this 4th day of December, A. D. 1901.

FRANK E. WOLLER,
Clerk of the Municipal Court.

83 STATE OF WISCONSIN, } ss:
Municipal Court, Milwaukee County, }

I, Frank E. Woller, clerk of the municipal court of Milwaukee county, do hereby certify that pursuant to the command of the annexed writ of error, I herewith transmit to the supreme court of the State of Wisconsin, certified copies of all of the original papers filed in the therein-entitled action, together with a certified copy of the original record entered in said action, and I further certify that the foregoing are certified copies of all said original papers, being the original capias, information for conspiracy, plea of A. J. Aikens, order setting case for trial, notice of time of hearing, affidavit and notice of motion to strike out plea of A. J. Aikens, affidavit and notice of motion to strike out plea of A. J. Aikens, exceptions of defendant, A. J. Aikens, recognizance of A. J. Aikens, bill of exceptions of A. J. Aikens, notice of filing writ of error of A. J. Aikens; plea of Albert Huegin, affidavit and notice of motion to strike out special plea of Albert Huegin, affidavit and notice of motion to strike out special plea of Albert Huegin, exceptions of defendant, Albert Huegin, recognizance of defendant, Albert Huegin, bill of exceptions of defendant, Albert Huegin, notice of filing writ of error of defendant, Albert Huegin; demurrer of defendant, Melvin A. Hoyt, exceptions of defendant, Melvin A. Hoyt, recognizance of defendant, Melvin A. Hoyt, bill of exceptions of defendant, Melvin A. Hoyt, together with all endorsements on each and every of the foregoing, filed and entered in the action therein entitled and of record in my office.

In testimony whereof, I have hereunto set my hand and
[SEAL.] affixed the seal of said court this 4th day of December, A. D. 1901.

FRANK E. WOLLER,
Clerk of the Municipal Court.

84 And afterwards, to wit: on the first day of February, A. D. 1902, the same being the thirteenth day of said term, the following proceedings were had in this court, in said cause, that is to say:

Milwaukee Municipal Court.

ANDREW J. AIKENS, Plaintiff in Error,
vs.
STATE OF WISCONSIN, Defendant in Error.

And now at this day came the parties herein by their attorneys and submitted this cause to the court on case and briefs, and the court not being now sufficiently advised of and concerning its decision herein, took time to consider of its opinion.

85 And afterwards, to wit: on the eighteenth day of February, A. D. 1902, the same being the fourteenth day of said term, judgment was rendered in said cause, by this court, in the words and figures following, that is to say:

Milwaukee Municipal Court.

ANDREW J. AIKENS, Plaintiff in Error,
vs.
STATE OF WISCONSIN, Defendant in Error.

Opinion by Justice Marshall.

This cause came on to be heard on the return to the writ of error issued herein, and was argued by counsel. On consideration whereof it is now here ordered and adjudged by this court, that the judgment of the municipal court of Milwaukee county, in this cause, be and the same is hereby affirmed, with costs against the said plaintiff in error taxed at the sum of — dollars.

Justice Dodge took no part.

86 And thereupon, this court, by Justice Marshall, filed its opinion in said cause, in the words and figures following, that is to say:

STATE OF WISCONSIN:

In Supreme Court.

Nos. 7, 8 and 9, State.

ANDREW J. AIKENS, Plaintiff in Error,
vs.
STATE OF WISCONSIN, Defendant in Error.

ALBERT HUEGIN, Plaintiff in Error,
vs.
STATE OF WISCONSIN, Defendant in Error.

MELVIN A. HOYT, Plaintiff in Error,
vs.
STATE OF WISCONSIN, Defendant in Error.

Each of the plaintiffs in error sued out his proper writ to review a judgment of the municipal court of Milwaukee county, adjudging him guilty of having committed an offense by violating section 4466*a* R. S. 1898, as charged in the information. The sufficiency of the complaint upon which the plaintiffs in error were originally charged and brought before a magistrate for their preliminary examination, and the constitutionality of sec. 4466*a* *id.*, were considered by this court and sustained on a review of *habeas*
87 *corpus* proceedings on writs of error, the causes being reported in 110 Wis. p. 189. On such review there was no question but that the complaint fully satisfied the statute. It was challenged, and the statute as well, on constitutional grounds. After such decision the causes were remanded for further proceedings according to law, whereupon an information was duly filed, charging the accused persons in all respects substantially as in the complaint, which has been passed upon as aforesaid.

Upon being duly arraigned upon such information, Andrew J. Aikens and Albert Huegin separately filed pleas admitting the charge made against them, but insisting that the same did not constitute a criminal offense, assigning in support thereof the same reasons as those formerly urged and passed upon by this court as aforesaid. Melvin A. Hoyt, being duly arraigned upon the information, took the same course as his associates by demurring to such information. The special pleas and the demurrer to the information were overruled. The plaintiffs in error thereupon, each in his own behalf, refused to plead over to the information, admitted all the allegations thereof, but insisted that the acts charged do not constitute a punishable offense. Thereupon the plaintiffs in error were severally adjudged guilty as charged in the information, and punishment therefor was duly imposed by the judgment of the court. Thereupon these writs of error were sued out to review such judgments.

MARSHALL, *J.*:

From the foregoing statement it appears that all the questions raised in the court below by plaintiffs in error were considered and decided against them in State *v.* Aikens, State *v.* Huegin, and State *v.* Hoyt, 110 Wis. 189. The trial court followed that decision as it was bound to do. As we understand the matter the information contains the same charge as the one set forth in the complaint, the plaintiffs in error in effect pleaded guilty thereto, admitting the doing of all the acts charged against them, and they were thereupon duly adjudged guilty and sentenced. In that view the judgments must be affirmed, as all questions in regard to the matters are *res adjudicata*, as before indicated.

88

By the COURT: The judgment as to each of the plaintiffs in error is affirmed.

89

ANDREW J. AIKENS, Plaintiff in Error,
vs.
STATE OF WISCONSIN, Defendant in Error.

I, Clarence Kellogg, clerk of the supreme court of the State of Wisconsin, do hereby certify that the above and foregoing is a true and correct transcript of all the record and proceedings now on file and of record in my office with all things concerning the same in the above-entitled cause.

That the original writ of error, the petition therefor, the citation with its service endorsed thereon, the assignment of errors and a copy of the bond are appended to the return herein, and that they are all returned to the Supreme Court of the United States in obedience to the command of the writ of error hereto annexed.

In witness whereof, I have hereunto set my hand and affixed the seal of said court at Madison, this 7th day of April, 1902.

[Seal Supreme Court of Wisconsin.]

CLARENCE KELLOGG,
Clerk of Supreme Court, Wisconsin.

Endorsed on cover: File No. 18,485. Wisconsin supreme court. Term No. 297 Andrew J. Aikens, plaintiff in error, *vs.* The State of Wisconsin. Filed April 11th, 1902.